

OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

REGION 19

In the Matter of:

Glacier Northwest d/b/a
CalPortland,

Case Nos. 19-CA-203068
19-CA-211776

Respondent,

and

Teamsters Union Local 174,

Union.

Place: Seattle, Washington

Dates: February 28, 2023

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UNITED STATES OF AMERICA
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The above-entitled matter came on for hearing, pursuant to notice, before **JEFFREY D. WEDEKIND**, Administrative Law Judge, at the National Labor Relations Board, Region 19, Jackson Federal Building, South Auditorium, 4th Floor, 915 Second Avenue, Seattle, Washington 98174, on **Tuesday, February 28, 2023, 9:09 a.m.**

A P P E A R A N C E S

On behalf of the General Counsel:

DANIEL MCCASKEY, ESQ.
RACHEL CHEREM, ESQ.
NATIONAL LABOR RELATIONS BOARD
915 Second Avenue
Room 2948
Seattle, WA 98174
Tel. (206)220-6305

On behalf of the Charging Party/Union:

BENJAMIN BERGER, ESQ.
BARNARD, IGLITZIN & LAVITT LLP
18 W. Mercer St.
Ste. 400
Seattle, WA 98119-3971
Tel. (206)257-6003

On behalf of the Respondent:

JOHN M. PAYNE, ESQ.
DAVIS GRIMM PAYNE & MARRA
701 5th Avenue
Ste. 3500
Seattle, WA 98104-7055
Tel. (206)257-6003
Fax. (206)622-9927

BRIAN LUNDGREN, ESQ.
JACKSON LEWIS, P.C.
520 Pike Street
Suite 2300
Seattle, WA 98101
Tel. (206)405-0404
Fax. (206)405-4450

CHRIS MOON, ESQ.
JACKSON LEWIS, P.C.
215 South State Street
Suite 760
Salt Lake City, UT 84111
Tel. (801)736-3199

I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
Matthew Hinck	998	1041 1047	1062		
Jessica Barkie	1069	1106 1112	1119		
Ted Herb	1121				
Robert Burens	1139	1163	1178	1188	1161
Brent Nordyke	1196				1219 1219

E X H I B I T S

<u>EXHIBIT</u>	<u>IDENTIFIED</u>	<u>IN EVIDENCE</u>
Respondent :		
R-6	1013	1020
R-7	1147	1151
R-8	1199	1219
R-24	1091	1096
R-25	1091	1096
R-29	1156	1162

1 P R O C E E D I N G S

2 JUDGE WEDEKIND: All right. Good morning. I believe this
3 is day 6 of the hearing. We -- we -- I think we -- we started
4 the Respondent's case last time we were here with Mr.
5 Siemering, right? We had Mr. Siemering on the stand?

6 MR. LUNDGREN: No. We'll be calling Matt --

7 JUDGE WEDEKIND: Oh.

8 MR. LUNDGREN: -- Hinck as our first witness.

9 JUDGE WEDEKIND: Oh, okay. I don't know why --

10 MR. LUNDGREN: Mr. Siemering was finished.

11 JUDGE WEDEKIND: Oh, he was testifying? Yeah, that's what
12 I said. So --

13 MR. LUNDGREN: Yeah.

14 JUDGE WEDEKIND: -- he was finished, right. Is there
15 anything we want to raise before we resume witness testimony?

16 MR. BERGER: Yeah.

17 MS. CHEREM: Yeah, briefly, Your Honor, I just wanted to
18 let you know that we do have some ongoing discussions regarding
19 the General Counsel's subpoena with Respondent -- with respect
20 to the privilege logs. We just conferred again this morning.
21 I need to touch base with the Region, but I can do so later
22 this morning in the interests of getting the ball rolling on
23 witness testimony.

24 JUDGE WEDEKIND: Okay. And how about the Union? Did you
25 have something you wanted to raise?

1 MR. BERGER: Two points, Your Honor. First, I think where
2 we left things last time Respondent's 5 was a spreadsheet. And
3 I -- I can't recall exactly but I do believe Your Honor said
4 that it would only be entered if the receipts for certain pages
5 were provided. Those receipts were subject to a subpoena
6 request by Charging Party. So that's point 1.

7 Point 2, we heard testimony from Mr. Siemering last
8 time -- he believes that we -- that there are phone records
9 from the dispatch office. That was also another subpoena
10 request that the Union made. I don't believe that has been
11 disclosed, but if it's somewhere in the disclosure then I
12 haven't seen it and I'd like to be pointed to it.

13 JUDGE WEDEKIND: Any response to that?

14 MR. PAYNE: Your Honor, as far as the dam -- what I'll
15 call damages of the spreadsheet, Mr. Siemering will be able to
16 testify as to all the underlying documents related to the
17 damages. If you remember, there was some dialogue back and
18 forth about where's the underlying documents, and he will -- we
19 will be prepared to recall him this week and have him clarify
20 what the underlying documents are. I don't have an answer for
21 the phone records. We can check and see if we have five-year-
22 old -- six-year-old phone -- phone records. I just don't know.

23 JUDGE WEDEKIND: Okay. But when did you submit the
24 subpoena for the receipts?

25 MR. BERGER: That was prior to the hearing.

1 JUDGE WEDEKIND: So that was your -- your original
2 subpoena. Okay. So -- and -- and the answer was there are
3 none?

4 MR. BERGER: Well, I don't know, but Mr. Siemering
5 testified he believes that they exist.

6 JUDGE WEDEKIND: Okay. Do you -- do you know why they
7 weren't provided?

8 MR. PAYNE: I don't, Your Honor, but we can check.

9 JUDGE WEDEKIND: Okay.

10 MR. LUNDGREN: If I may, Your Honor? I think the
11 testimony from Mr. Siemering was there may -- they may have
12 kept a phone log back in 2017. I don't think he testified
13 there -- you know, that there is a phone log from that time
14 period.

15 JUDGE WEDEKIND: I -- I haven't checked my -- my notes on
16 that issue, but --

17 MR. BERGER: The phone log was what we asked for.

18 JUDGE WEDEKIND: Okay.

19 MR. BERGER: I understand he may not be able to confirm
20 himself whether or not it still exists, but it was part of our
21 request, and I believe it's still open.

22 JUDGE WEDEKIND: Okay. But you're saying did -- he did
23 testify about receipts that he said --

24 MR. BERGER: Well --

25 JUDGE WEDEKIND: -- that he did not --

1 MR. BERGER: -- we may need to bring up the -- the
2 transcript, but I -- the way it was left, as I recall, is the
3 Respondent's Exhibit 5 -- at least page 2 -- was only going to
4 be allowed into evidence if Res -- if Respondent produced the
5 underlying documents in support. What I'm hearing from
6 Respondent, now, is that they're just going to produce
7 additional testimony. I don't think that would be sufficient
8 to allow Respondent 5 -- at least page 2 -- into the record.

9 JUDGE WEDEKIND: Well, you know, you can raise that with
10 Mr. Siemering when he testifies and you can argue, you know,
11 what kind of weight I should give to that testimony. At this
12 point, I think I said we needed a breakdown. That's what I
13 think -- definitely what I said. A breakdown of -- especially
14 on page 2 -- is what I may have said.

15 MR. BERGER: Okay.

16 JUDGE WEDEKIND: But -- and that could include receipts.
17 I mean I actually thought about that, like, where are the
18 receipt -- how -- how do you know what it was? And that is
19 something that you can raise at the time. I mean, apparently,
20 they're going to recall him. You can put it on the record. I
21 think we should get a report at some point.

22 MR. LUNDGREN: We are, Your Honor.

23 JUDGE WEDEKIND: Where are the receipts, underlying
24 documents?

25 MR. LUNDGREN: Yes.

1 JUDGE WEDEKIND: And why haven't they been provided? And
2 since they were subpoenaed before the hearing, I think they
3 should be provided as soon as possible.

4 MR. PAYNE: Understood, Your Honor.

5 JUDGE WEDEKIND: Not just -- not just when Mr. Siemering
6 is called to testify again. So just remind us again if you
7 don't -- let us know -- let us know when you get any response
8 on these issues.

9 MR. BERGER: Oh.

10 JUDGE WEDEKIND: And if you don't, then you can raise it
11 again, okay?

12 MR. BERGER: Will do, Your Honor.

13 JUDGE WEDEKIND: All right. Anything else?

14 MR. BERGER: Not from Charging Party, Your Honor.

15 JUDGE WEDEKIND: Respondent, are you ready to call your
16 next witness?

17 MR. LUNDGREN: We are, Your Honor. Respondent calls Matt
18 Hinck.

19 JUDGE WEDEKIND: Good morning.

20 MR. HINCK: Good morning.

21 JUDGE WEDEKIND: I'm going to ask you to start just by
22 stating your name and spelling it for us.

23 MR. HINCK: Okay. It's Matthew Hinck. Matthew with two
24 Ts. Last name is Hinck, H-I-N-C-K.

25 JUDGE WEDEKIND: C-K. Thank you.



1 MR. HINCK: Most people leave out the C.

2 JUDGE WEDEKIND: Yeah, I did. All right. I started
3 writing the K before you said C.

4 MR. HINCK: There you go. See?

5 JUDGE WEDEKIND: All right. If you would, raise your
6 right hand, I'll swear you in.

7 Whereupon,

8 **MATTHEW HINCK**

9 having been duly sworn, was called as a witness herein and was
10 examined and testified as follows:

11 JUDGE WEDEKIND: All right. Thank you very much.
12 Counsel?

13 **DIRECT EXAMINATION**

14 Q BY MR. LUNDGREN: Good morning, Mr. Hinck. Can you tell
15 us where you are currently employed?

16 A I am employed by CalPortland Company.

17 Q And what is your title?

18 A My current title is senior -- senior director of
19 environmental affairs.

20 Q To whom do you report?

21 A Rob Binam.

22 Q And what is Rob Binam's title?

23 A Senior vice president general counsel.

24 Q How long have you been employed by Glacier?

25 A I started working with Glacier in March of 2006.



1 Q What positions have you held at Glacier during your
2 employment?

3 A Let's see here. Environmental manager for the Washington
4 region. Senior environmental manager, Washington region.
5 Environmental director, and senior environmental director.

6 Q What are your current duties at Glacier?

7 A As the environmental director, I oversee the environmental
8 and regulatory compliance program for CalPortland's/Glacier's
9 materials division. So it's not just Washington, it's over the
10 whole footprint where we operate. So five states, a province
11 in Canada.

12 Q Where is your main office located?

13 A I have an office in Bellevue, Washington and an office in
14 Federal Way.

15 Q And what state is Federal Way in?

16 A Oh, sorry. Federal Way, Washington and Bellevue,
17 Washington.

18 Q How many employees report to you?

19 A Let me just do a quick mental check. Seven.

20 Q And what is your educational background?

21 A Well, I graduated high school in Shelton, Washington.
22 That was way back in 1987. And then I attended the Uni --
23 University of Washington in Seattle, main campus, and received
24 a Bachelor of Science in paper science. It's now called paper
25 science engineering. I received a Bachelor of Science in

1 chemical engineering and a Master of Science in engineering --
2 environmental engineering.

3 Q And are all those degrees from the University of
4 Washington?

5 A Yes.

6 Q What was your position at Glacier in August of 2017?

7 A I was the senior environmental manager.

8 Q What were your duties as the senior environmental manager?

9 A Well, at that point, I was in charge of the environmental
10 and regulatory matters just for the Washington -- Glacier
11 Washington region.

12 Q Can you describe for us what the Washington region was in
13 2017, generally?

14 A Well, the company's broken down into different operating
15 regions. So the Washington region, basically, was from the
16 Town of Morton northward and all the plants that were basically
17 owned and operated by Glacier in that, roughly, about 25
18 different concrete plants, mines, terminals, things like that.
19 So the Washington region started in Morton and went northward.
20 We have an Oregon region which is from Morton southward. Even
21 though we call it the Oregon region, there are some sites from
22 Washington in that region.

23 Q And what about -- what about Glacier's King County,
24 Washington facilities in 2017; what region would they have been
25 in?

1 A They would've been part of my region, right.

2 Q And roughly, if you can remember, how many facilities did
3 you manage environmental compliance for in August 2017?

4 A Roughly 25, give or take.

5 Q And where was your office located in August 2017?

6 A I had -- in August 2017, I had the office in -- at the
7 Seattle plant, our Duwamish office. And I also had the office
8 in Bellevue.

9 Q And when you say Seattle plant, is that also referred to
10 as the Duwamish plant?

11 A Yeah.

12 Q I want to ask you some questions about concrete disposal
13 and compliance. How does disposal of concrete impact, if at
14 all, environmental compliance?

15 A Well, I mean, when a -- when a -- when concrete comes back
16 to the plant it has to be handled in a way at the plant that
17 doesn't impact the environment, basically, to be consistent
18 with our permits. And when the material -- you know, the
19 material has to be removed from our site, so it has to go to
20 basically, locations that are -- that we have reviewed and are
21 approved to take that kind of material to be recycled. So
22 there are sort of various things that have to be managed.

23 Q What is it about concrete that impacts environmental
24 con -- compliance?

25 A Well, when the concrete's wet and is still in a plastic

1 state, meaning it's not set up -- you know, any water that
2 comes into contact with the wet -- wet mix is going to -- the
3 pH of that water gets elevated. So that's one thing is that --
4 then you have -- can generate runoff that is a high pH. And
5 even after the concrete hardens, any water that comes into
6 contactive -- contact with it for period of time will get --
7 have -- have an elevated pH.

8 There's also, you know -- you have to deal with -- the
9 concrete can be dirty when it comes back -- broken up --
10 makes -- makes it kind of a mess on your site. So you got to
11 make sure that your site maintain -- you maintain your -- the
12 level of housekeeping that you're -- that is important to --
13 for compliance.

14 Q What else, if anything, about concrete besides pH levels
15 and dirty concrete impacts environmental compliance?

16 A Well, it's really like the -- so the water that comes off
17 in the concrete, you know, if it reaches the environment and
18 hasn't been treated or handled properly it can detrimentally
19 impact the environment. So like, high pH water is toxic to
20 fish, and it's toxic to plants as well. So that -- that's
21 really the -- sort of the number one concern is handling that
22 material in a way that you're managing the runoff from the --
23 from the areas where you store it.

24 Q How about the components of the concrete itself? Does
25 that have any impact?

1 A The primary ones that we look at are -- let's say we have
2 a permit, and it's concerned primarily with settleable solids,
3 pH, and other water quality parameter called turbidity, are the
4 main -- main ones. And there are other chemicals in the --
5 that can be added to concrete, but primarily the permit -- you
6 know, was looking at -- on a macroscale looks at the turbidity,
7 pH, TSS. We're also required to look for oil sheen as the main
8 compliance parameters.

9 Q What is tur -- turbidity?

10 A Turbidity is just a measurement of how cloudy water is.
11 So if you -- like, if you take Seattle tap water -- it's very
12 clear -- like, in a bottle -- but if you start adding, like, we
13 add a drop of coffee to it the water becomes cloudy. So
14 there's a way of measuring how cloudy the water is. And that
15 relates to -- like, cloudy water doesn't let sunlight transfer
16 through it as well, so it effects aquatic -- the aquatic
17 environment.

18 Q And what is -- and you can correct if I'm wrong if I
19 misheard you -- what is DSS?

20 A Oh, I said -- I'm sorry -- I said -- I probably mumbled.
21 TSS.

22 Q What is TSS?

23 A Total suspended solids. So when you discharge water off a
24 site to a surface water you have to measure the turbidity. You
25 also have to measure the total suspended solids. And the --

1 the reason there is -- and that is, basically, if you were to
2 take the water and filter it through a fine filter there are --
3 there's sediment -- fine sediment -- in that water. And you
4 filter up sediment and -- by weighing it, sent it to a lab you
5 determine what the percent of solids is in the water. And so
6 again, it's a water quality. Sediment loading is an important
7 criteria for -- for water bodies.

8 Q How do you treat the pH issue with the waste water system?
9 How do you mitigate that?

10 A So at our plants -- not just the Seattle plant, but all
11 the plants -- we have -- we collect the water from -- runoffs
12 from either where we batch the concrete because that also
13 generates high pH water. We also -- and the areas where we
14 store wet concrete. It eventually hardens up. All that
15 runoff, in general, gets routed to -- through a series of
16 sumps. And the sumps are designed to allow solids to settle.
17 Because, again, we're try -- we -- it's not just about pH.
18 It's about solids as well.

19 So we basically clarify the water, and we basically need a
20 certain amount of time for that to happen. And then once
21 the -- once you have the water goes through these series of
22 sumps then you run it through a treatment system. And you need
23 to adjust the pH. So our permit has a compliance -- pH target
24 of compliance that's 6-1/2 to 8-1/2. So all the water that
25 leaves our facility has to be within that 6-1/2 to 8-1/2 range.

1 So we run the water into a -- typically, into a tank which gets
2 circulated by a pump. And then we add acid, which brings the
3 pH from a high level down to the compliance range.

4 Q You said --

5 A Then we check -- then we check it and discharge it.

6 Q You said you add acid to affect the pH. Can you just
7 dilute the waste water with -- with clean water and mitigate
8 the pH levels?

9 A You -- so water's kind of a tricky thing. There's actu --
10 a class -- a class in college on this -- water chemistry. So
11 you would think that, like, you could, but it takes a hell of a
12 lot of water. So you know, water is a very typically
13 unbuffered they call it. So a tiny amount of an alkaline
14 material will significantly raise the pH. So adding --
15 diluting it with fresh water -- eventually, yes, you could add
16 enough fresh water to like, if -- you know, you might be 10:1,
17 20:1, 30:1 -- I don't know the ratio, but it would take a lot
18 of just straight water to dilute an -- an alkaline water down
19 to compliance range.

20 So that's not really practical. I mean, obviously, you
21 know, we pay for the water. So the more effective way is to
22 add something that counteracts the alkaline material. So you
23 have acids and base -- acids and bases. So to get -- to get an
24 alkaline material pH to drop you need to add an acidic
25 material. So at our plants we use -- let's see -- it's

1 hydrochloric acid.

2 Q Okay. Turning to the King County facilities in August
3 2017, what were your duties involving the Duwamish plant?

4 A Well, again, I was in charge of environmental compliance
5 for all the sites in Washington. So my job was to make sure
6 that the sites operated on a day-to-day basis within the --
7 within the confines of their permits -- basically, in
8 compliance. And that -- that sort of is a overarching quick
9 summary, but, you know, there's a lot to it.

10 Q For the Duwamish plant, were any of those duties
11 delegated?

12 A Yes. So I mean, as a regional environmental manager my
13 job is to -- yes, it's delegated to the plant manager. So.

14 Q And who was -- if you recall, who was the plant manager at
15 the Duwamish plant in August 2017?

16 A Dave Siemering.

17 Q In August 2017, did you have occasion to observe the
18 Duwamish plant?

19 A Did you say August 2017?

20 Q Yes.

21 A Or just 2017?

22 Q Or -- is it -- does it matter?

23 A No. No. I just wanted to make sure I understood the
24 question. So --

25 Q Well, let me -- let me --

1 A Okay.

2 Q In 2017, did you have occasion to observe the Duwamish
3 plant?

4 A Yes. My office is at the Duwamish facility, so I -- I --
5 yes, I observed the plant many times during 2017. Part of my
6 duties is to, you know, routinely go through the plants. So it
7 could be a driving through, a walking through with the plant
8 manager, physically looking at the plants. And I do that -- I
9 would do that as part of my routine at not just the Seattle
10 plant but all the plants.

11 Q And did that include August 2017?

12 A Yes, I'm sure I did.

13 Q Where was -- what building were -- was your office at the
14 Duwamish plant?

15 A Well, the building's not there anymore, but it was at the
16 front of the plant along East Marginal Way.

17 Q And for the record, not all of us are from Washington.

18 A Okay.

19 Q How far is Bellevue from the Duwamish plant?

20 A Bellevue is, say, ten miles by -- as the crow flies. 20
21 minutes, 30 minutes by driving.

22 Q What environmental challenges, if any, does Glacier's
23 Duwamish plant present?

24 A Environmental -- did you say environmental challenges?

25 Q Challenges, yeah.

1 A Okay. Well, all the plants are -- you know, we manage all
2 the plants as a philosophy in the company to be in compliance.
3 That's -- that's the overarching philosophy of our companies,
4 right? So complying with -- with permits is always
5 challenging, no matter what the site, but the Duwamish site in
6 particular has -- has -- has more challenges. I would say,
7 like, from an operations standpoint. I'm not an operations
8 guy, but, like, if you think about it, the plant is -- it's
9 relatively small for the volume of concrete we produce, so
10 there's a lot of activity on the site. And it's directly on
11 a -- a -- a water body. So we have to conduct all this
12 activity at the site, and we have to make sure that basically
13 no -- we have no impact on that adjacent water body.

14 Q And what is the name of that adjacent water?

15 A The Duwamish River.

16 Q What environmental challenges, if any, does the Duwamish
17 River present to Glacier's plant?

18 A Well, so for Ecology, any water body that you operate
19 on -- or discharging waters into -- I mean, it's always looked
20 at from the state as being very -- it's always looked at with a
21 great deal of sensitivity. But the Duwamish, in particular,
22 receives a lot of attention because the Duwamish is undergoing
23 a Superfund cleanup. So because of that -- and the EPA
24 oversees the in-river cleanup. And there's a lot of parties
25 involved all along a certain stretch of the river that our

1 plant is on.

2 But in general, just backing up from a 30,000-foot level,
3 we're operating a plant next to a river. The river's a
4 Superfund cleanup site. Any -- anything that we do that has
5 even the perception of having a detrimental impact to that
6 river is going to be looked at with a lot of scrutiny by -- not
7 just Ecology, but EPA and other regulatory agencies. So
8 there's a -- I would say, heightened level of sensitivity.

9 Q You used the word "ecology" in your answer. What did you
10 mean when you said ecology?

11 A Sorry. That is the Washington State Department of
12 Ecology.

13 Q In the course of your duties, do you know how the Duwamish
14 River is designated a Superfund site?

15 A Just generally, I'm not an expert on Superfund cleanup.

16 Q Who designates it a Superfund cleanup?

17 A Oh, the EPA. Yes, they -- designated by EPA.

18 JUDGE WEDEKIND: Was that true in 2017?

19 THE WITNESS: Yes, it was. It's been designated -- I
20 don't know when the designation occurred, but it's been
21 designated a Superfund cleanup site for quite a while. And
22 it's complex.

23 Q BY MR. LUNDGREN: And what are the effects, if any, of
24 that Superfund status on Glacier's operations at the Duwamish
25 plant?

1 A Well, I mean, I think I jus -- I talked about it in my --
2 my last answer. I mean, it's -- it's -- there are a lot of
3 eyes watching the river, so we just have to make sure that we,
4 you know, like all our operations we want to run a flawless
5 operation. We want to -- we want to be in perfect compliance
6 with our permits all the time. That's the philosophy we have
7 at all the other plants we operate. It's just more important
8 at Duwamish because of like, you know -- there's so much
9 sensitivity around that river.

10 Q In 2017, what governmental agencies had environmental
11 oversight over the Duwamish?

12 A Over the Duwamish?

13 Q The Duwamish plant.

14 A The operation or the river?

15 Q Your operation.

16 A Well, it'd be the Department of Ecology, Puget Sound Clean
17 Air, King County, the -- and then the -- you know, ostensibly,
18 the City of Seattle would have some oversight as well.

19 Q How, if at all, does the State Department of Ecology
20 communicate its requirements for Glacier's operation next to
21 the Duwamish River?

22 A So in order for us to operate a concrete plant -- any
23 concrete plant in the State of Washington -- we have to have
24 a -- generically, called a stormwater permit. It's a permit
25 from the Department of Ecology that we have to have in place in

1 order to operate our business there.

2 Q What environmental monitoring responsibilities does
3 Glacier, itself, have at the Duwamish plant location, if any?

4 A So again, we have a permit issued by the Department of
5 Ecology. It's called the Sand and Gravel General Permit. And
6 within that permit, there's a lot of requirements. But it --
7 you know -- one of the sections talks about when you release
8 water from your facility there's a matrix which describes the
9 water quality parameters that you have to meet, how often you
10 have to test for those parameters, and then how that data's
11 communicated to the Department. So I think that was your
12 question?

13 Q That answered it.

14 A Okay.

15 Q Thank you. What inspection or monitoring, if any, do the
16 governmental agencies perform at Glacier's Duwamish site in the
17 2017 and the years leading up to 2017?

18 A So there -- the different agencies come at different
19 frequencies to inspect our facility. The -- they have the
20 right to come in at any time unannounced or announced and
21 inspect our facilities. That could be the Air Agency, Ecology,
22 King County, the City. So the -- the inspections happen on
23 a -- different agencies have different inspection frequencies.
24 And that's kind of -- I can't explain to you why -- or I don't
25 know why they come at different frequencies, but some come more

1 often than others. The Air Agency, like clockwork, comes every
2 year. Ecology -- I think it's due to their staffing
3 resources -- you know, they're more, like, on a three-year
4 basis. King County is probably out there every year.

5 Q What was your role in agency -- in these agency
6 inspections of the Duwamish plant at Glacier?

7 A So I try to be at as many of the inspections as I can, but
8 I -- since I oversee 25 sites and I might not be there when the
9 inspector shows up. I'm not at -- at every inspection, but
10 when I can, I attend the inspections. It's my expectation --
11 or as environmental manager in 2017 -- my -- my expectation is
12 that the plant managers and their foreman are prepared --
13 trained and prepared to handle these inspections.

14 Q In 2017, what notice did the agencies provide, typically,
15 before an inspection happened, if any notice?

16 A I think it -- I -- I -- I think I covered it in my last
17 answer, but I'll just reiterate. Some of the agencies tell you
18 in advance and some don't. So Puget Sound Clean Air never --
19 never gives us advance warning. The Department of Ecology,
20 sometimes they give you advance warning and sometimes they
21 don't. And it just depends on the inspector that's assigned to
22 your site. King County, typically, they notify us when they're
23 going to come out.

24 MR. LUNDGREN: May I approach, Your Honor?

25 JUDGE WEDEKIND: Yes. Thank you.

1 Q BY MR. LUNDGREN: I'm showing you what's been marked as
2 Respondent Exhibit 6. It has a title on it, "The Sand and
3 Gravel General Permit". Do you see this document?

4 A Yes, I do.

5 Q Can you tell -- tell us if you recognize the document?

6 A Oh, very much so. Yes.

7 Q And what is it?

8 A It is the Sand and Gravel General Permit issued by the
9 Department of Ecology, effective February 17th, 2016, and
10 signed by Heather Bartlett, the water quality program manager.

11 Q Who has access to this document?

12 A This is a public document. So anyone can get it from
13 Ecology on their website.

14 Q Is this an accurate copy of the Sand and Gravel General
15 Permit in effect at the Duwamish plant in August 2017?

16 A Yes, it is. I will say that -- well, this is a general
17 permit. So the Duwamish facility is issued a certain permit
18 ID. So just like everyone in the sta -- every operator in the
19 state, it's a general permit. Let me just give -- if you the
20 mind, I could explain just a little bit about general permit.

21 Q Sure. Why don't you explain -- that was my next question.

22 A Okay.

23 Q What does general permit mean?

24 A Getting a little ahead of myself. So what the state does
25 is they are taking the Clean Water Act, which is under the

1 authority of EPA. EPA adminis -- delegates portions of the
2 Clean Water Act, gives Department of Ecology authority to
3 implement certain sections of the Clean Water Act. In -- in
4 this case, they're -- they're delegating the authority for the
5 NPDS permit system.

6 So that's National Pollution Discharge Elimination system.
7 And that is the -- is the program that applies to
8 municipalities, cities, and industrial operators. It's a
9 program of plan, do, check, and correct where you're -- it's
10 designed to, like, monitor -- have a plan, monitor the water,
11 check the water, and then make corrections. It's a circular
12 process whereby over a period of time, an operation improves
13 their -- how they operate and gets better and better over a
14 period of time. That's the -- that's the genesis of an NPDS
15 permit.

16 And it -- so what the state has done, is they have this --
17 they have to implement that portion of the Clean Water Act in
18 the State of Washington under the guise of -- under the
19 watchful eye of EPA. So the state has many different ways in
20 which they can do it, and states take many different
21 approaches. But in the State of Washington, what they've
22 chosen to do is they look at industry sectors. So they take --
23 for instance, our industry sector is sand and gravel, which
24 means concrete plants, sand and gravel mines, quarry, rock
25 mines, asphalt plants, block -- companies that make structural

1 blocks and things like that. That's all, like, one industry
2 category.

3 So they write a general permit for every entity in that
4 industrial category. So it's a common permit that all the
5 operators in the state have to comply with the one -- with
6 the -- the same condit -- same permit conditions. And what
7 they do is each facility that is complying with the general
8 permit is issued a specific permit ID. So it's like your
9 license -- driving license. Like, as a driver in whatever
10 state you're from, you know, there's rules of the road that
11 you've got to comply to it. Like, when I got my license, there
12 was a -- a driver's pamphlet you got, and you learned the rules
13 of the road, and then when you took your test, right,
14 everyone's got to take a test. Everyone's got to comply with
15 the same rules.

16 So -- but once you pass your driving test, you get a
17 license, right and has an ID. That's -- I know mine in my
18 head, right. So it's the same thing. So our -- the Duwamish
19 facility has a permit ID, our other plants have different
20 permit IDs, but we all comply with the same permit. And just
21 to finish the point, Ecology -- Department of Ecology has many
22 different industrial or many different categories. So there's
23 sand and gravel, boatyard, there's cattle feeding operations,
24 there's one for wineries, there's one for industrial general,
25 there's one for cities and so on.

1 Q What is --

2 A That's a long-winded answer. I'm sorry.

3 Q That -- that's fine. What is the duration of the -- of
4 this general permit, if you know.

5 A It's five years, typically.

6 Q And when was the general permit, Respondent 6, in effect,
7 from? Can you tell?

8 A It is -- came into effect February 17th, 2016, and expired
9 on March 31st, 2021.

10 Q What role, if any, does Glacier or CalPortland play in
11 establishing the permit requirements in the general permit?

12 A So the Ecology is ultimately the permit authority. They
13 write the permit. And again, ev -- the permit is reviewed
14 every five years and updated. So during that review process,
15 the public has an opportunity to provide input and comments to
16 Department of Ecology. So CalPortland does that. We provide
17 input in the process. And of course, we're -- our industry is
18 considered a stakeholder, so we actually attend meetings with
19 Ecology. But ultimately, it's their decision on how they want
20 to modify and change the permit.

21 So I -- I provide -- for the benefit to the company, I
22 have provided comments on the permit, acted on behalf of the
23 company, and I also -- our -- we have a state trade association
24 that engaged in a similar way that -- for the whole state.

25 Q Just generally, how does this general permit apply to



1 Glacier's operations at the Duwamish plant in 2017?

2 A This is a permit that governs the discharge of water off
3 our facility.

4 Q And how does -- what systems does Glacier have to handle
5 the discharge of water from the Duwamish plant facility in
6 2017?

7 A Well, we have a water, you know, that -- we have an entire
8 water management plan that we have written out for the
9 facility. But in general, that plan -- and the plan describes
10 sort of where water comes from on the site, where it flows,
11 what sumps it goes through, how it gets settled, how it reaches
12 our water treatment system, how the water treatment system
13 operates, the conditions in which we have to meet before we
14 discharge water from the facility. So it's basically a written
15 desc -- we have to have a written description of how we manage
16 our water system. And that's a -- that is a permit
17 requirement.

18 Q In -- in practice in 2017, can you describe for us how
19 Glacier's Duwamish plant processed wastewater?

20 A So the water -- the whole -- Duwamish plant's a little bit
21 unique, because it -- most of the geographic footprint of the
22 site, we collect that water. Some sites, we have areas where
23 we can -- it's -- what -- it's called, it's unimpacted water,
24 like, rainwater comes out of the sky, and hits ground. It's
25 not -- there's no impact. It's, like, not part of your

1 industrial operation. Some sites have mixes of nonindustrial
2 and industrial operations, and we have to separate those two.
3 But the Duwamish plant, we -- we utilize almost every square
4 inch of that property for industrial operation which makes it a
5 little simpler to apply the permit.

6 But we basically, again, the site is divided up into
7 basins, essentially, so water at the front of the plant is
8 going to flow to this sump. That sump is going to pump to this
9 next sump, which pumps to the back of the plant. That water
10 then gets pumped up into a series of tanks. That water can be
11 reused back in the plant to -- for batching concrete, and then
12 we have excess water, then we would -- we would treat the water
13 for -- with acid to bring the pH down, and let it settle,
14 check, and at that point, we check the water for pH turbidity,
15 and if it meets those -- the criteria established in the permit
16 for discharge, we -- we can release the water into the Duwamish
17 River.

18 Q How do you handle wastewater that when tested, it doesn't
19 meet the general permit requirements? What do you do?

20 A So I mean, we're not knowingly going to discharge water
21 off the site that doesn't meet compliance. So we actually go
22 beyond what the permit requires. The permit only requires us
23 to monitor the water, like, twice a month at the facility. But
24 we manually check every load of water that we test or treat at
25 the facility, and if the water doesn't meet the client's

1 standard, then we basically reprocess it until it does. We're
2 not going to -- we're not going to let the water leave the
3 plant un -- if it's out of compliance.

4 Q What types of consequences happen if the general permit is
5 violated, if you know?

6 A Well, if you egregiously violate the permit, the
7 consequences are going to be quite severe. So an example of
8 that would be if you had water in the tank that you knew was
9 out of compliance, and you just -- you decided we're just going
10 to let it rip, discharge it back into the river. So you're
11 sort of like knowingly -- in that case, you are knowingly
12 discharging the water that is not in compliance with the
13 permit. So that is something that Ecology would look at quite
14 unfavorably, because you've like knowingly done something that
15 is a violation of your permit. Now --

16 Q Would that -- what were the consequences?

17 A So the consequences -- I mean, if you are egregiously
18 violating the permit, the -- Ecology, has the authority to levy
19 significant fines. And I think the permit spells out somewhere
20 where that might be per day. And if a -- if the permit is
21 egregious -- the violation is egregious, then the permit also
22 allows the agency to prosecute individuals. Basically, they
23 can prosecute individuals for taking decisions that violate --
24 making decisions that violate the permit, which I mean, you --
25 they can prosecute you and send you to jail. So I mean, the --

1 if you willing -- knowingly and willingly violate the permit,
2 the consequences can be quite severe. And I -- I, like, I
3 don't want to go to jail, so, like, I'm not good jail material,
4 so I -- we want to make sure we -- we comply with the permit.

5 Q Sure.

6 MR. LUNDGREN: I think at this time, Your Honor, I'll
7 offer Respondent Exhibit 6, the Sand and Gravel General Permit
8 into evidence.

9 MS. CHEREM: No objection.

10 MR. BERGER: No objection from the --

11 JUDGE WEDEKIND: Okay. It's received.

12 **(Respondent Exhibit Number 6 Received into Evidence)**

13 Q BY MR. LUNDGREN: What awareness do you have about a
14 strike by King County Teamster drivers that started on
15 August 11, 2017?

16 A Well, I -- I know the strike happened.

17 Q Where were you the morning of August 11, 2017?

18 A I don't re -- I don't know where I was that day. I've
19 checked my Outlook calendar, it was open for the day, meaning
20 there's no appointments on the calendar, but I -- I don't have
21 any recollection of where I physically was that day.

22 Q Before that strike happened, what training, if any, did
23 Glacier provide to mixer truck drivers about the environmental
24 sensitivity of concrete?

25 A We provide on -- consistent and ongoing training to the

1 drivers and all the plant employees about the concrete and you
2 know, how we comply with our permits. There's a whole training
3 program we have.

4 Q How do you know about that training?

5 A Well, I'm the one that did most of the training.

6 Q What was covered in the training?

7 A Well, we cover, in general, air, water, solid waste,
8 spills, are the -- sort of the four main topics that we cover
9 during the training. Some of the things that we focus on a lot
10 are sort of how the permits apply to our facility, what the
11 company does to comply with permits. We go through, I guess,
12 of course, if you want a thirty-minute talk, I can give you
13 that. But I'm just hitting the highlights, you know, if I --
14 if I'm -- I'm talking to a group of drivers, you know, like,
15 one of the things we always talk about is, like, if you see
16 something, you've got to let us know, and here's the protocol
17 for doing that. If you see something that's out of the normal;
18 water -- untreated water leaving the facility, the plant
19 blowing dust, like, we want -- there's a notification protocol
20 we want them to follow that. That -- that's one thing we
21 always cover because we want to make sure that if -- if there
22 is something unforeseen happening, that we get on top of it,
23 take care of the reporting obligations if we have to.

24 The other thing we talk about, you know, and I always
25 spend some time with the -- all -- at all trainings just kind

1 of going through the basics of especially water, like, why
2 concrete -- how concrete affects the water and drives pH up,
3 how high pH water can affect the environment, so that the
4 drivers have an understanding of the material that they're
5 dealing with. And it usually hits home when you -- you tell
6 the drivers, like, look, if you get concrete on your shirt or
7 your pants, and you don't do anything about it, at the end of
8 the day, you take your shirt off, and you got a red -- your --
9 your arm's red. And that's from the high reacting to your
10 skin, and the light kind of goes off. Like, they understand at
11 that point what -- what you're talking about. And then with --

12 Q How --

13 A Go ahead.

14 Q How, if at all, did the training address the general
15 permit?

16 A Well, we talked about how the general permit governs --
17 that the water release -- that leaves our facility, how we have
18 to handle it, treat it and we can't release untreated water
19 into the environment. And you know, in some cases, in a lot of
20 plants, you know, where the drivers rinse out their drums,
21 that's important, because it has to be within the designated
22 area in the plant. If they don't, and they wash out in an
23 un -- undesignated area, for example, that could result in high
24 pH water leaving the plant untreated. So there's a lot of
25 things. You know, we talked about the general -- you know, in

1 a 40-five-minute training you can't cover the -- whatever
2 eighty pages of this document, but you hit the highlights that
3 are important.

4 Q How frequently did you do the training?

5 A Generally speaking, on an annual basis.

6 Q What did the training -- how did the training, if at all,
7 address the chemicals associated with concrete?

8 A The only thing in the training we really talked about was,
9 you know, that we -- we use admixtures in our concrete. We --
10 we -- primarily for admixtures, we really talk about, like, the
11 general permit has requirements for how we store and contain
12 chemicals. So if we hit that, we talk about, like, if -- if
13 for some reason, like, you drive your truck, and you hit a
14 tote, and the tote spills, like, what -- what are you supposed
15 to do? But we don't -- like, I never -- I mean, I don't spend
16 any time in the training talking about how the admixtures
17 affect concrete or you know, environmental hazards of any
18 specific admixture. It's more -- the parameters that we have
19 to be concerned about are pH, soluble solids, turbidity, oil.

20 Q What about the driver's daily obligations; how is that
21 covered, if at all?

22 A So the things that we -- the things that I make sure I
23 always want to convey to the drivers are when you have an
24 incident, meaning you spill concrete, your truck breaks down,
25 what, you know, how -- how they have to -- how we would like

1 them to respond. So it's always stop, contain, notify are
2 the -- is the -- is the preamp -- is the training. You always
3 stop as fast -- quickly as you can, you do your best to contain
4 the spill, and you always notify -- and you always notify
5 dispatch. That -- that's how -- then it -- then it enters into
6 our system within the company and how to respond.

7 So that's the first thing. We -- we -- oh, and I always
8 say, like, don't continue driving your truck. As much as
9 possible stop the vehicle. Don't not tell us, like, not -- not
10 telling about a spill or a release is very problematic for the
11 company.

12 And then the last thing what I always cover is we spend a
13 lot of time talking about how the drivers can wash out their
14 chutes at job sites. And so after the concrete's poured, the
15 chutes are dirty, the state has a lot of rules about -- and the
16 counties and cities have a lot of rules about how when the
17 chutes can be washed of the residual concrete, where that water
18 has to go, how it has to be handled. We actually have a policy
19 on that as a company, so.

20 Q What, if anything, did the training address about the
21 consequences of violating the general permit?

22 A Well, I mean, we -- we, you know, I -- I think I covered
23 what I covered before already in my answer to you. You know,
24 we talk about the consequences of violating the permit. If
25 it's an egregious violation, you know, it can result in

1 significant penalties for the company or prosecution of an
2 individual. So that was another thing we also -- all -- I
3 always highlight.

4 Q Who from the King County Teamster drivers received this
5 training?

6 A Well, all of them would have gone through training.
7 There's a chance that on the day I did a training that some
8 people were not there. But generally speaking, we -- we try to
9 train all the drivers every year.

10 Q There has -- I'll just represent to you there's been
11 testimony about drivers walking away from approximately 15
12 fully-loaded mixer trucks in the Duwamish yard the morning of
13 August 11, 2017.

14 MS. CHEREM: Objection. Misstates the prior testimony.

15 Q BY MR. LUNDGREN: And how much concrete has 15 fully-
16 loaded --

17 JUDGE WEDEKIND: One second. We have an objection.

18 MR. LUNDGREN: Oh, sorry. I don't think it misleads --

19 JUDGE WEDEKIND: Can you --

20 MR. LUNDGREN: -- the testimony at all, but.

21 JUDGE WEDEKIND: Well, can you define walking away? What
22 does -- what does that mean?

23 MR. LUNDGREN: Leaving unattended. Walking off the
24 premises while --

25 JUDGE WEDEKIND: Okay.

1 MR. LUNDGREN: -- 15 fully loaded mixer trucks --

2 JUDGE WEDEKIND: Okay. Any problems with that?

3 MS. CHEREM: I still think that misstates the prior
4 testimony. But I think his question might be different -- it
5 does --

6 MR. LUNDGREN: Abandoned?

7 MS. CHEREM: I think if you just ask the question of how
8 much is -- concrete is 15 loaded trucks, I don't have an
9 objection to that question. I have an objection to the
10 preface.

11 MR. LUNDGREN: Sure, but we're addressing your legal
12 objection, and I don't --

13 MS. CHEREM: Sure.

14 MR. LUNDGREN: -- think it misstates the evidence at all.

15 JUDGE WEDEKIND: I just --

16 MS. CHEREM: I do.

17 JUDGE WEDEKIND: Overruled for now.

18 Go ahead. Can you answer the question?

19 THE WITNESS: Well, I think I need to hear the question
20 again.

21 JUDGE WEDEKIND: Sure.

22 MR. LUNDGREN: Sure.

23 Q BY MR. LUNDGREN: How much concrete, if you know, is 15
24 fully loaded trucks?

25 A So if you assume a truck has ten yards, which is the

1 typical amount, a yard of concrete weighs 4,000 pounds, so
2 that's 40,000 pounds of concrete in one truck. And then 40
3 times 15 would be 600,000 pounds is the ballpark.

4 Q What are the environmental risks, if any, associated with
5 drivers leaving 15 fully loaded mixer trucks in the Duwamish
6 yard in 2017?

7 A Well, so the first risk that I think about is that the
8 trucks have concrete in them. And you know, if concrete stays
9 in the truck, concrete's going to harden up and the equipment's
10 going to be -- be damaged, the drum. So you know, you've got
11 to get the concrete out of the drums of the trucks to protect
12 the equipment. So you have 15 trucks full of concrete. You
13 got to get the concrete out of the drums. The -- the
14 concrete's got to come out of the trucks and go into a -- an
15 area and be handled in a way that it doesn't impact the water
16 quality systems that we have at our facility.

17 So the risk or the concern I would have, and if you ask
18 what the concern was, is to make sure that the material would
19 be handled in a way that it doesn't detrimentally impact the
20 water quality system we have at the facility.

21 Q From an enviro stand -- environment standpoint in
22 August 2017, how could Glacier best handle that volume of
23 abandoned concrete at its Duwamish plant?

24 A With that much concrete, the -- the safest environmental
25 thing, in my opinion and experience, is to get the concrete out

1 of the trucks into a bunker, let it harden up, so into a place
2 where it can harden up into a solid mass, break it up in the
3 loader, push it into a pile, and then at a point in the future,
4 haul it off to be recycled.

5 Q I'm going to ask you questions about the reclaimer at the
6 Duwamish plant in August 2017.

7 A Okay.

8 Q What familiarity do you have with the reclaimer at the
9 Duwamish plant in 2017?

10 A I have a general familiarity with the equipment.

11 Q And how do you have a general familiarity with the
12 equipment?

13 A Well, again, I started in 2006, and there was no reclaimer
14 there in 2016. So Dave Siemering had the idea of installing a
15 reclaimer at the facility to help recover sand and gravel from
16 our operation and to more efficiently -- so basically, it's an
17 efficiency standpoint to recover the sand and gravel. It's
18 good for the environment. So basically, you know, Dave talked
19 to me about it from the genesis of his idea and the equipment
20 he sort of had in mind that he could put together to do it.
21 And you know, he consulted me about where would be a good --
22 good spot in the plant. I had some guidance on that.

23 Of course, we reviewed whether there was any permitting
24 requirements that would be needed to install it. There
25 weren't. And then, you know, I mean, again, I said part of my

1 duties are to go through the plant on a routine basis. So as
2 Dave embarked upon this project to build a homegrown reclaimer,
3 I mean, I could see the physical progress he was making to put
4 the equipment in. And then once it was in, you know, there
5 were some modifications he made over a period of time. But you
6 know, I watched the good work, how efficiently it separated
7 sand and gravel and you know, so I know in general how -- how
8 it works.

9 Q And can you describe for us that reclaimer process how it
10 works?

11 A Well, again, I'm not an expert. That's really an
12 operations question, but generally speaking, the concrete comes
13 out of the truck, enters a screw where it's, you know, water is
14 added. The screw separates the sand and gravel away from the
15 cementitious fines, called cementitious water. So you have an
16 initial separation, getting the sand and gravel separated from
17 the cement and the cement fines. The sand and gravel portion
18 is then -- goes through a -- a screen with -- which has
19 capability for washing, spraying -- spraying with clean water.
20 So that -- the screen basically allows the sand and gravel to
21 be washed before removing any more sand -- cement fines from
22 it, and then the screen also separates the sand from the
23 gravel. So that's like one side of the operation.

24 And then the cementitious water that drains away from
25 the -- from the initial separation and from the subsequent

1 washing, all that water is combined, goes into a pond where we
2 actually -- the pond keeps the cementitious fines. It's a
3 stirring pond -- a pond with a paddle in it to keep everything
4 sort of in suspension. And then that -- that suspended water
5 with all the cement fines goes through a press. And what the
6 press does is, it basically filters the water to make like a
7 cement cake.

8 It's like a coffee filter, right, as you run the water through,
9 it catches all the solids, but it's an industrial operation.

10 So basically, we remove the cement fines, so you create
11 this waste stream of cement fines, and then the mix -- out of
12 the press comes clear water -- clearer water, but it has a very
13 high company because it's been combining with the cement. And
14 that water then would enter into our water treatment system to
15 be adjusted for company and then released from the facility.

16 Q What about -- is it called a cement cake?

17 A Cement cake, yeah.

18 Q What happens to the cement cake?

19 A The cement cake is dried. So it comes out of the bottom
20 of the filter press, is scooped up with the loader, put into a
21 pile where it's allowed to sit and dry. Dave actually
22 installed like a heating system, like a concrete pad that's
23 heated to like, so the slurry or where the company -- the
24 cement cake gets put on this heated pad, and over a period of
25 weeks dry -- it dries moisture out of them, out of that

1 material, and then eventually that material is sent offsite to
2 waste management to be disposed of.

3 Q What -- if -- if you know, what volume of concrete was the
4 Duwamish plant reclaimer designed to handle in 2017?

5 A I don't -- I'm not aware that the -- that's an operations
6 question to start with, but I -- from talking to Dave and
7 making my rounds around the plant, basically because he cobbled
8 together equipment from different operations that we had, like
9 my understanding was that that reclaimer was designed to handle
10 a few yards of concrete per hour; maybe three, four or five.

11 It wasn't a system where you could bring back truck after
12 truck after truck of concrete and process it. And I've gone to
13 trade shows. I know there are systems out there that exist,
14 big volume, concrete recycling systems that you can purchase
15 that cost a lot of money that that purport to be able to handle
16 huge volumes -- large volumes of concrete, but my understanding
17 through talking to Dave was the system he put in was designed
18 to handle small amounts. If a truck comes back with a half
19 yard of concrete, it can go into the reclaimer. So you
20 periodically are getting trucks with small amounts of concrete
21 going through the reclaimer.

22 Q How feasible, in your mind, was -- was the option of using
23 the reclaimer to handle 15 fully loaded mixer trucks in August
24 2017?

25 A Not feasible in my mind. I think I just kind of covered

1 some of the -- based on my understanding of the capacity, I do
2 not believe that is feasible.

3 Q Let's talk about environmental compliance and water. What
4 would the effect be of adding large volumes of water to 15
5 fully loaded mixer trucks at the Duwamish plant?

6 A Well, that's also an area where I'm not really a
7 knowledgeable expert, but -- so if you add water to concrete,
8 it -- it changes how -- how fast the concrete might set up.
9 But I can't say to an extent about how long, what, where, any
10 of the details. But generally speaking, if you add water, it
11 changes the viscosity, thickness of the concrete and will slow
12 down how long it takes to set.

13 Q What would the effect be in the yard --

14 A Okay.

15 Q -- from an environmental standpoint?

16 A You said with like large amounts of water?

17 Q Right.

18 A So if you somehow were able to add a large amount of water
19 to the concrete in a truck, it would create a very diluted,
20 thinned out mix of concrete. So if it comes out of a truck,
21 now you've got the soupy, wet mix of concrete. It's going to
22 make a mess in the yard. It's got a -- try to -- you're going
23 to try to keep it -- contain it in a bunker, but you've got 15
24 trucks that you're doing this to. Like, you have this soupy
25 pile of concrete mess.

1 So my concern would be -- I mean, again, I don't know the
2 text, like how much water you can add before the concrete will
3 never set up, but let's say you've added enough where it's
4 going to set up, like, real slow. I do know that, like, it's
5 not going to set up real firmly, so that -- that's one issue.

6 So now you've got a material -- let's say you got this
7 muck pile of partially hardened concrete. We have to get --
8 we -- we have to send that material offsite to be recycled. We
9 don't have a recycling operation, I mean, for hardened concrete
10 in our facility. And I know that the recyclers won't take --
11 they want hard material, because they're making road base out
12 of it. So we would have -- we wouldn't be able to send that to
13 our offsite concrete recyclers. They wouldn't accept it.

14 And I know that -- someone else might ask me this. I know
15 we have -- or had loads rejected in the past. When the -- the
16 material's mushy, wet, they don't like it. They won't take it,
17 because it screws up their operation. So first issue would be
18 you got this messy pile of wet concrete. The disposal side of
19 it would be a problem, costly for us to handle, because we
20 wouldn't be able to send it to recycle. We'd have to send it
21 off to, like, waste management or something like that. Second
22 issue is you have this pile of wet mess. We have vehicle
23 traffic all around the plant. Those vehicles are going to
24 likely pick up concrete on their tires and track it around the
25 plant. Now you've created a secondary environmental issue.

1 That tracks out to the road, that -- that becomes an area we
2 see concern.

3 Q So let's shift attention to chemicals like Delvo. Have
4 you heard of Delvo?

5 A I have heard of Delvo.

6 Q What is Delvo?

7 A All I know about Delvo is it is a chemical that we can
8 add -- that can be added to concrete to slow down or retard the
9 set time of concrete. Beyond, that, I don't know what's in
10 Delvo. I don't know what makes it up. I don't know how it
11 works or how long it lasts.

12 Q How feasible an option would adding large amounts of Delvo
13 to 15 fully loaded mixer trucks and running it through the
14 reclaimer have been?

15 MS. CHEREM: Objection. Foundation.

16 JUDGE WEDEKIND: He's -- he's answering -- that's an
17 operation's question. To allow your questions --

18 MR. LUNDGREN: Sure. Let me modify it to an environmental
19 question.

20 JUDGE WEDEKIND: Okay.

21 Q BY MR. LUNDGREN: From an environmental standpoint, what
22 would the effect of adding Delvo to 15 fully loaded mixture
23 trucks and running it through the reclaimer have been in August
24 2017?

25 A Well, there's provisions in our permit that would kick in

1 that we'd have to address before that could happen.

2 Q And --

3 A A provision.

4 Q Tell us what the provision is.

5 A So I think -- let me just look it up again real quick.

6 MR. LUNDGREN: Yeah. Could you put Respondent Exhibit 6
7 back up, please?

8 JUDGE WEDEKIND: Page what?

9 Q BY MR. LUNDGREN: Do you know which page number you're
10 referring to, Mr. Hinck?

11 A I'm getting there. Page 13.

12 Q And --

13 A So yeah. I --

14 Q Well, direct us on page 13 to what you're referring to.

15 A So --

16 Q That's page 12.

17 A -- under section F on page 13 -- it's not section F.

18 It's, like, section 3(f), okay? That's the specific section of
19 permit. It's S(3)(f).

20 Ecology has a provision in their permit, and especially,
21 it applies to surface water discharges. So S(3)(f), if you
22 look at that requirement and there's a paragraph under letter
23 C, third sentence reads:

24 The permittee must notify Ecology prior to use of any new
25 chemical discharging to surface waters or of any sig --

1 significant change in the application rates of chemicals
2 discharging the surface waters.

3 So there is a provision in this permit which states that
4 if you make a significant change to your process, Ecology does
5 not -- you must notify Ecology and seek their approval.

6 So bringing this back to your question, the environmental
7 concern I would have is if a plant manager came to me and said,
8 we're going to significantly jack up the dosage rate of Delvo
9 in these trucks, 15 of them, and then we're going to run it
10 through the reclaimer, that -- I would have -- I believe this
11 provision of this permit comes into play.

12 Because when they run the concrete through the reclaimer
13 that has all this Delvo, the Delvo migrates into the water. So
14 it becomes part of the water, which would then be discharged
15 from the facility.

16 So what this -- the importance of this provision is that
17 Ecology is trying to protect the environment, water quality,
18 right? They don't want us discharging something off the site
19 which would kill fish or other aquatic creatures.

20 So as a stopgap measure, they have this provision here
21 which says if you make a significant change in your operations,
22 you must consult us. And they have the scientists inside the
23 agency that would look at the change your requesting to make,
24 evaluate the toxicity of it, and give you a green light or a
25 red light.

1 Q Where is significant change defined?

2 A To my knowledge, it is not defined in the permit.

3 Q In your professional experience, how you define
4 significant change with respect to adding a volume of Delvo to
5 15 fully loaded mixer trucks?

6 A So it really comes down to, like, professional -- my
7 judgment as a, you know, tenured environmental professional and
8 knowing -- working with the agency, being involved in writing
9 this permit.

10 I just mentioned, like, it's there as a stopgap -- it's
11 there is a backstop to make sure that companies, like, consult
12 the agency before they make changes. So like, when you are
13 operating within what I would say normal bounds, the agency's
14 gone out to concrete plants all over the state, took -- taken
15 water from our samp -- facilities in the past, tested it for
16 toxicity.

17 And they know what to expect in our water and they know
18 it's not toxic to the environment, right? So that's sort of
19 what I call within the norm. So when I think about, like, how
20 often in my head do I hear of operations Delvoing trucks in
21 significant quantities? Well, I don't.

22 I go around the plants. I listen to the operators talk to
23 the plant managers. Like, my understanding is that,
24 occasionally, there'll be some concrete that has Delvo in it
25 that might end up going through a reclaimer and into our water

1 system, right?

2 But I'm being asked in this -- this -- here, if you had
3 150 yards of it you want to jack up with Delvo and then run
4 through the water quality system. To me, that is -- like,
5 that's outside the norm, right? It's a judgment call on my
6 part.

7 Does it trigger this section of the permit? I'm the
8 environmental director. It's my job to make those decisions
9 and guide the company to comply with this permit. So in my
10 professional opinion, that's how I reach the conclusion that
11 it's significant.

12 Q What's -- what's the process for notifying Ecology of a
13 significant change?

14 A So I mean, they don't -- they -- of course, they don't
15 define notify, either. So it could be a phone call, email,
16 letter. It used to be all letters back when I started. Now
17 it's emails and phone calls.

18 So you know, any one of those methods, you could -- you
19 know, you could call. You can phone. I mean, you could call,
20 you could write a letter, or you could send an email.

21 Q Have you had to do that before?

22 A I have done it before once.

23 Q In your experience, how long does it take to get an answer
24 from the Department of Ecology?

25 A Well, Ecology is a bureaucratic organization, and you're

1 dealing with not just -- it takes about a week. In my
2 experience, when I went through it, and it was a fairly simple
3 request, it took about a week to get an answer.

4 And it's not just the first person you contact. Like,
5 you're contacting the person you know at the agency, which is
6 your water quality inspector. But that person doesn't know
7 anything about water quality toxicity. They just know how to
8 enforce the permit, right?

9 So then that person then has to take that information, go
10 inside Ecology. There's a water quality -- there's scientists
11 inside the agency. The information has to get them, the
12 request. Then they're going to come back and ask you 65
13 questions about the chemical, the toxicity, the makeup, the
14 volume, all this stuff.

15 Then they evaluate it internally, and then the information
16 comes back to you. So it just -- it just takes time. It's
17 not, in my experience, something that happen -- it will not
18 happen quickly.

19 Q What would happen -- what is your understanding of what
20 would happen if you engage in a significant change without
21 first notifying Ecology?

22 A Are we talking about the scenario in which you describe or
23 any general?

24 Q Well, I'll ask any general scenario first.

25 A Okay. So if you -- if you're -- if your plant has

1 undergone a significant change, you know about it, and you
2 haven't said anything to Ecology, and they come out and find
3 out or somehow find out, then you're going to get questioned
4 about why you didn't consult them about making the change.

5 And if in their mind, they determine that you've
6 significantly altered your operation and not sought their
7 approval, it's a violation of the permit. And again, if you do
8 it willingly and knowingly, and you're trying to hide something
9 from the agency, the -- the severity of the penalty goes up.

10 Q And for the scenario we've been talking about with the 15
11 loaded trucks?

12 A Again, I'm the environmental director, and it'd be my
13 evaluation that merits -- that meets the definition of
14 significant change. And again, I am duty bound as an
15 environmental manager to guide this company to comply with
16 these permits.

17 And it's my judgment that it -- you know, we should
18 consult Ecology before we do something like that. And the
19 operations people might not like -- always like the answers I
20 give them, but we all work together as a team. And I know that
21 they would have respected that answer if I told them that --
22 that.

23 Q How realistic would it be to expect an answer from Ecology
24 about this potential significant change the same day you asked
25 the question?

1 A It just -- I -- it wouldn't happen. Oh. Let me say,
2 obviously it's possible. Highly unrealistic.

3 MR. LUNDGREN: I have no further questions save for
4 potential redirect.

5 JUDGE WEDEKIND: Okay. Any cross?

6 MS. CHEREM: Yes, Your Honor. I think now -- if it's okay
7 with everybody, it might be a good time to take a quick
8 restroom break. And that'll just give me a few minutes to
9 regroup, if that's okay.

10 JUDGE WEDEKIND: I think that makes sense. We'll take a
11 short break, five, ten minutes. Off the record.

12 (Off the record at 10:19 a.m.)

13 JUDGE WEDEKIND: All right. Cross?

14 **CROSS-EXAMINATION**

15 Q BY MS. CHEREM: Good morning. My name's Rachel. I am
16 counsel for the General Counsel in this matter. And I'll be
17 asking you a few questions to follow up on your testimony this
18 morning.

19 You testified a lot about the operations and environmental
20 compliance at the Seattle Duwamish facility. Are you also
21 familiar with the Kenmore facility?

22 A Yes.

23 Q Okay. And where is the Kenmore facility in relation to
24 the Seattle facility?

25 A Okay. Well, Kenmore is on the north end of Lake



1 Washington, so it's ten miles apart, 30 minutes by car to the
2 north.

3 Q And are the environmental policies and procedures
4 different at Kenmore and Duwamish?

5 A Kenmore is a little bit more complicated. Kenmore has a
6 sand and gravel general permit. We also have a King County
7 industrial waste permit at -- at Kenmore.

8 Q And that doesn't exist at Duwamish?

9 A We have -- so at Duwamish, there is what's called a King
10 County sanitary district -- a minor permit. At the Kenmore,
11 it's considered a major permit. So the difference is --

12 Q Sure. I was just about to ask you, what's the difference?
13 I'm just getting educated about concrete throughout this whole
14 proceeding.

15 A Okay. So in Kenmore, the primary method where we
16 discharge our water, plant water in Kenmore, is to the sanitary
17 sewer. So therefore, we have a major permit.

18 Q Okay.

19 A Okay?

20 Q And what's a minor permit?

21 A A minor permit would be -- we have a minor permit at
22 Duwa -- the Duwamish plant. And it is discharged in the
23 sanitary sewer, but it's there only as a backstop as, like, an
24 occa -- it's basically for emergency use only in our facility.

25 Q Okay. So what are the additional procedures at Kenmore in

1 terms of disposing of concrete? You said it's a little more
2 complicated.

3 A Well, the way we handle concrete is essentially the same
4 at Kenmore as it is at Seattle. I mean, the -- what I meant by
5 saying compli -- more complicated is because we have different
6 water handling protocols at Kenmore compared to Seattle.

7 Q And does that impact the drivers at all? Or would that be
8 more from your pers -- it would be, like, more of a behind the
9 scenes perspective?

10 A Operations and Environmental.

11 Q Okay. So the drivers might not necessarily interface in a
12 different way with the process at Kenmore versus Seattle?

13 A No. As long -- I mean, they're trained in terms of where
14 to wash out, where to -- you know, worry to dump out concrete.
15 I mean, they would -- they're -- and they're trained for that
16 at every plant.

17 Q Okay.

18 A So they don't necessarily -- they're not involved in the
19 operation of the water handling.

20 Q Sure. So if I'm a driver and I've been trained at Ken --
21 on what to do at Kenmore and what to do at Seattle, it's going
22 to be pretty similar for both of those locations?

23 A Well, I'm not the --

24 Q Sure.

25 A I haven't done the training --

1 Q Got it.

2 A -- on -- you know, but I would say, in general, sure.
3 Yes.

4 Q Okay. You mentioned --

5 JUDGE WEDEKIND: I'm sorry. Could I? You said you have
6 not done the training?

7 THE WITNESS: Well, in terms of, like -- from an operation
8 perspective at each plant, you know, it's really up to -- it
9 comes down to the driver manager and plant manager who would be
10 telling the drivers wash out there, dump your concrete there.

11 I mean, all behind that, of course, I'm making sure that
12 all this is kosher environmentally, but I don't get involved on
13 a day-to-day basis.

14 Q BY MS. CHEREM: Sure. But the drivers do get those
15 instructions on what to do?

16 A Yes.

17 MR. LUNDGREN: Objection. Foundation.

18 JUDGE WEDEKIND: Yeah. I mean, why are we asking him
19 these questions? He obviously --

20 MS. CHEREM: Okay.

21 JUDGE WEDEKIND: -- doesn't have much personal --

22 MS. CHEREM: I'll -- I'll move on.

23 Q BY MS. CHEREM: And you mentioned that the Duwamish is an
24 EPA Superfund site, right?

25 A The Duwamish River is undergoing --

1 Q Yes.

2 A -- a Superfund cleanup. Yes.

3 Q Okay. And that because of that, there's some additional
4 scrutiny, right?

5 A Correct.

6 Q Is the operation -- are the protocols different when
7 there's less external scrutiny or is it the same?

8 A The point I was trying to make in my testimony was that we
9 run our plants to try to -- with the goal of being perfectly
10 compliant at all of our plants. So what I was saying is that
11 if you have a water quality issue at Duwamish, it's -- it's
12 more sensitive because just the over -- the overall sensitivity
13 of the water body in which you are potentially impacting.

14 But it doesn't influence how we operate our operations.
15 We operate our all operations to the same standards.

16 Q Okay. Thank you. All right. Can you turn to R-6? I
17 just had a question about Appendix A. And it might be that I
18 just didn't get to read all of this in detail.

19 A What page?

20 Q It starts on page -- no page number? Oh. 50. It says
21 49 --

22 A Okay.

23 Q -- and 50. It says 49 in one spot and 50 in the bottom
24 right corner. This is sort of Appendix A.

25 A Okay.

1 Q Just so I know as a layperson, which codes and categories
2 apply to Duwamish and Kenmore?

3 A Okay. So the way the permit works is the foundation in
4 every permit is your industrial code, and a permit will say, if
5 your operation is classified under this industrial code, you
6 must seek coverage under this permit.

7 So concrete plants are listed as -- and there's two
8 different naming structures, NAICS, N-A-I-C-S, and SIC.

9 Q Okay.

10 A SIC is the old system. So concrete plans are listed
11 under -- on page 52 of the permit, if you go to that next page.

12 Q And is that con -- concrete, which one is it?

13 A It's 3273 under SIC and 327320.

14 Q Got it. So the ready-mixed concrete?

15 A Yep.

16 Q Okay.

17 A Correct.

18 Q All right. Thank you. I just wanted to make sure I knew
19 what --

20 A Yep.

21 Q -- we were talking about. You said that you test every
22 load of water at Duwamish, right? Is that also true at
23 Kenmore?

24 A No. Me --

25 Q Not you, personally.

1 A -- not -- when you say you, you mean --

2 Q Someone employed by CalPortland.

3 A -- euphemistically?

4 Q Yeah. The greater you.

5 A Yes. That is our protocol at both Kenmore and Seattle.

6 Q Okay. You may not know, but if you do, is there normally
7 any Delvo in concrete?

8 A I think I -- I said in my earlier responses, I only -- I
9 hear about it, so I'm aware that, occasionally --

10 Q Okay.

11 A -- concrete can have Delvo in it, but I have no idea how
12 much.

13 Q You're not aware of the specifics? Okay. Also not aware
14 of the specifics of how much might get added when one adds
15 Delvo?

16 A I do not know that, no.

17 MS. CHEREM: Okay. All right. Nothing further at this
18 time, Your Honor.

19 JUDGE WEDEKIND: How about from you?

20 MR. BERGER: Yes, sir.

21 **CROSS-EXAMINATION**

22 Q BY MR. BERGER: Good morning, Mr. Hinck. My name's Ben
23 Berger. I'm an attorney for the Charging Party, Teamsters
24 Local 174. I want to start by asking you about the training
25 that you say you conduct with drivers.



1 During the course of any training that you've done, have
2 you ever directed drivers not to return to the yard with a full
3 or partial load of concrete?

4 A I don't recall if I have, so I can't give you a definitive
5 answer.

6 Q Okay. And in the course of your training, did you ever
7 discuss drivers' responsibilities for handling their vehicles
8 or concrete in the event of a strike?

9 A No.

10 Q Do mixer truck drivers have any responsibilities for
11 implementing Glacier's water management plan?

12 A The drivers have responsibility for, say, portions of the
13 plan. What I mean --

14 Q Okay.

15 A -- that, would be like when they're told to wash out in a
16 certain area of the plant, they need to do that because that's
17 part of our water management system. When -- when they're told
18 to distribute out or discharge concrete, excess concrete, in a
19 certain part of the plant, that's part of our water management
20 system. So it's a component of the larger system.

21 Q Okay. And where are those responsibilities identified, if
22 you know?

23 A They would be told by the plant manager.

24 Q At any given time during their shifts, are drivers aware
25 of the amount of excess water being processed?

1 MR. LUNDGREN: Objection. Foundation.

2 MR. BERGER: I think there's adequate foundation that's
3 been laid here.

4 JUDGE WEDEKIND: Can you repeat the question?

5 MR. BERGER: At any given time during their shifts, are
6 drivers aware of the amount of excess water being processed at
7 the yard?

8 MR. LUNDGREN: I'll add speculation as well.

9 JUDGE WEDEKIND: Do you have any knowledge of that,
10 personal knowledge?

11 THE WITNESS: I mean, I know how I would answer your
12 question, but I --

13 JUDGE WEDEKIND: Well, go -- no. Go ahead. How would you
14 answer the question?

15 THE WITNESS: I would say the drivers don't.

16 Q BY MR. BERGER: Okay. And similarly, do drivers have any
17 knowledge during their shifts about the pH levels of the water?

18 A Well, no. Because that's not handled by operations.
19 There's different staff members at the plant that run the water
20 treatment system.

21 Q And which staff members are those?

22 A Well, there's several people. Like, are you talking about
23 the Seattle plant --

24 Q Yeah. Let's --

25 A -- or any plant?

1 Q The Seattle plant.

2 A Okay. Well, there's several people at the plant that are
3 trained to run the system. Just specifically, the end of the
4 system, the water handling system, there's several people at
5 the plant who would be -- who are trained and know how to
6 operate it because we have to have primary, secondary, tertiary
7 people.

8 Q And who are those individuals?

9 A Well, I know -- I don't know exactly in 2017, but it would
10 have been Dave Siemering. It would have been the plant
11 foreman, Chuck Spiegel. And there -- I'm sure there was a
12 backup behind Chuck, but I'm not sure who that was.

13 Q Were you employed by Glacier in 2010?

14 A Yes.

15 Q Do you recall a strike by Teamsters Local 174 that year?

16 A Not very much.

17 Q Do you remember anything about the strike?

18 A Actually, no. I'm getting old.

19 Q Go ahead.

20 A I'm getting old. I can't remember things that well.

21 Q In July or August of 2017, did you have any discussion
22 with other Glacier managers about the possibility of a strike
23 by Teamsters Local 174?

24 A No.

25 Q In the course of your day, do you have occasion to speak



1 with Brent Nordyke?

2 A In 2017? Yeah.

3 Q Yes.

4 A I want to back up to the previous question. I mean, there
5 was a meeting. We had a meeting internally at one point which
6 talked about, if drivers go on strike there are steps the
7 company's going to take, fencing gates, things like that.

8 Q When was that meeting?

9 A I don't have a recollection.

10 Q Okay. To your recollection, who was present at that
11 meeting?

12 MR. LUNDGREN: I'm going to object. This is beyond the
13 scope at this point.

14 MR. BERGER: This is directly relevant.

15 MR. LUNDGREN: There was a scope issue.

16 MR. BERGER: Well, I can --

17 JUDGE WEDEKIND: I mean, he testified. You asked him a
18 lot of questions about the strike in general. I think it's
19 reasonably related. I'm going to allow it.

20 Q BY MR. BERGER: Okay. Who, to your recollection, was
21 present at that meeting?

22 A You know, I'm -- I -- I mean, I can name a few people, but
23 it would have been the regional vice president, Dave Siemering.
24 Myself, I was there. Just I think I was invited just to know
25 what would be happening. I don't --

1 Q Go ahead.

2 A I mean, I know it sounds -- seems kind of lame, but I just
3 don't remember exactly who was at the meeting. I know Dave was
4 there and Melanie was there. I was there. There were more
5 people. I don't remember who.

6 Q Okay. And you said the steps that the company would take
7 in the event of a strike. To the best of your recollection,
8 what steps were discussed?

9 A The only thing I really remember is talking about the
10 gates that would be set up at the plants if there was a strike.
11 And -- and -- and the only -- that's the only thing I really
12 remember because, during a strike, I know there's a certain
13 gate you have to go through as a Cal -- Glacier Northwest
14 employee.

15 Q Was there any discussion about the potential environmental
16 challenges posed by a strike?

17 A No.

18 Q And you didn't raise that issue yourself?

19 A No. I did not.

20 Q Do you remember who led that meeting?

21 A I do not.

22 Q Was there any discussions during the meeting about the
23 possibility of drivers stopping work in the middle of their
24 shifts?

25 A I never -- again, I think I stated before that, really,

1 the only thing I recall from the meeting was talking about how
2 the gates would be set up.

3 Q Had you been aware at the time that drivers might return
4 full loads of trucks during the day, would you have recommended
5 any steps for the environmental challenges that posed?

6 MR. LUNDGREN: Objection. Speculation, foundation,
7 improper lay witness testimony. It didn't happen.

8 MR. BERGER: It is counterfactual, but it's relevant.

9 MR. LUNDGREN: It's speculative.

10 JUDGE WEDEKIND: I'm going to overrule it for now. I
11 think let's see what kind of answer we get to that question.

12 Can you provide an answer to that question? What would
13 you have recommended if you --

14 THE WITNESS: So what's the theoretical question you're
15 asking me to answer today?

16 Q BY MR. BERGER: Sure. If you were aware prior to the
17 strike that drivers might return, let's say, up to 15 loads
18 of -- full loads of concrete, would you have recommended that
19 Glacier take any steps in advance of the strike to prepare for
20 the environmental implications?

21 A So you're saying I would know in advance that potentially
22 15 trucks might be coming at the plant. And you're asking me
23 if I knew that before a strike happened, what I would tell --
24 advise?

25 Q Correct.

1 A I would go back to what I said before. The most
2 environmentally lowest risk thing for us to do is to discharge
3 the concrete in the bunker to let it harden so we can break it
4 up and haul it off. So if I had known that, the only thing I
5 would have advised to the plant manager was -- no -- notice in
6 advance, right? Make sure you got enough space.

7 Q And that is ultimately what Glacier did with those trucks,
8 correct? With the loads in the trucks.

9 A You know, I -- of course, I now have become more
10 knowledgeable of it, but at the time, I wasn't actually aware
11 of it. I am aware of that now.

12 Q Yeah. I wanted to ask a little bit about your personal
13 knowledge. Am I right that you did not personally observe the
14 strike either at the Duwamish or Kenmore facility on August
15 11th, 2017?

16 A All I -- all I said was that I wasn't -- I do not remember
17 what I was doing that day. So I'm not saying I -- I can say I
18 don't remember where I was. I could have gone to Seattle. I
19 could have gone to Kenmore. I might not have. I just don't
20 remember.

21 Q Okay. Do you have any personal recollection of observing
22 any aspect of the strike that day?

23 A No.

24 Q In the course of your duties, do you ever have occasion to
25 communicate with Teamsters Local 174 officers?

1 A Nope.

2 Q Does anyone that you oversee have occasion to speak to
3 Teamsters 174 officers?

4 A No. I mean, I don't know who the Teamsters 174 officers
5 are. The only time I would talk to were -- my now employees
6 talk to them would be during training. They might be part of a
7 training class. But if you're asking specifically, do I -- do
8 I specifically talk to Teamsters officers, A, I don't know who
9 they are, and B, no.

10 Q Right. And I'm referring not necessarily to the -- those
11 who are employees of Glacier but who are officers for the local
12 Union. You're not familiar with who those are?

13 A No. An even more solid no answer.

14 Q Do you have any personal knowledge of what directives the
15 plant manager, Dave Siemering, gave to drivers who returned
16 with loads of concrete on the day of the strike?

17 A I do not at all.

18 Q And do you have any personal knowledge of what steps the
19 drivers took to secure their vehicles that day?

20 A No. I don't.

21 Q And you didn't have any role in managing the company's
22 response to the strike that day, correct?

23 A I do not, no. And that's strictly out of operations.

24 Q You talked briefly in your testimony about on some -- some
25 occasions, Glacier will send leftover concrete to third-party

1 recyclers, I think you call them; is that right?

2 A I don't think I said that during my testimony. I said
3 that the concrete from our operations can be broken up and sent
4 off to third-party operations after it hardens.

5 Q Okay. And you discussed, correct me if I'm wrong, that
6 there would be, potentially, problems with giving that leftover
7 concrete to those third parties if it was in a soupy state, I
8 think you called it; is that right?

9 A Um-hum.

10 Q Okay. Does -- do you personally know whether Glacier ever
11 sends leftover concrete in a non-soupy state?

12 A Well, the normal operation of the plant, Seattle plant
13 specifically, is if there is broken -- wet concrete that comes
14 back, it comes out of the truck, usually in a ribbon. It
15 hardens up into a soft semi -- you know, to a solid material.

16 It gets pushed up with the loader into a pile which
17 breaks it into pieces. Then it sits in the pile probably for
18 another week, generally. And then it gets put into a dump
19 truck, sent to the recycler.

20 Q Now --

21 A So the recycler expects mostly solid material.

22 Q And you mentioned a ribbon. Can you explain what a ribbon
23 is?

24 A That's one of the -- that's one of the terms that is used
25 colloquially in our business. So when a truck is -- let's say,

1 has concrete in it and you're going to get the concrete out.
2 So the truck starts discharging concrete. If the truck moves
3 forward slowly while that's happening, you get a ribbon of
4 concrete.

5 Q Okay. And it's a fairly regular occurrence for a ribbon
6 of concrete to come out, harden, and then be delivered off
7 site?

8 MR. LUNDGREN: Objection. Vague. Regular.

9 JUDGE WEDEKIND: Okay.

10 MR. BERGER: I don't think there's anything vague about
11 it.

12 JUDGE WEDEKIND: You're saying that the word regular is
13 vague? Can you repeat the question?

14 MR. BERGER: Yeah. I can.

15 Q BY MR. BERGER: Is it a common occurrence -- or why don't
16 you just identify how common your experience is it for Glacier
17 to deliver broken up concrete offsite?

18 A It's -- it's common at all of our plants.

19 Q Are you familiar with something called an ecology block
20 form?

21 A Yes.

22 Q Okay. In your role, do you have any responsibility for
23 preparing the ecology block forms?

24 A No.

25 Q Do you know whether ecology -- dumping concrete into

1 ecology block forms was discussed as an option during that
2 preparation meeting you testified about?

3 MR. LUNDGREN: Objection again, Your Honor. Beyond the
4 scope, relevance, foundation, and asked and answered. He
5 already testified he has no involvement with ecology blocks.

6 JUDGE WEDEKIND: That's a different question. Overruled.
7 Do you recall any discussion of ecology blocks now that he
8 specifically mentioned that?

9 THE WITNESS: I do not.

10 JUDGE WEDEKIND: Okay.

11 Q BY MR. BERGER: And how about delivering the concrete
12 offsite? Is that discussed at the meeting, broken up concrete?

13 MR. LUNDGREN: Same objections.

14 JUDGE WEDEKIND: Well, you know, he said he didn't have
15 any recollection. More specific questions might trigger a
16 recollection, so I'm going to allow it.

17 THE WITNESS: I do not.

18 Q BY MR. BERGER: And how about using the reclaimer to
19 process concrete that was brought back by drivers? Was that
20 discussed at the preparation meeting?

21 A Again, I only recall -- the only thing I can recall about
22 that meeting is the discussion of the gates.

23 Q You agree that there was no spill of concrete during -- on
24 August 11th, correct?

25 A I was not told of any spills on that day, and it would be

1 the responsibility of the plant manager to tell me that there
2 had been a -- a spill. And I was not -- to the best of my
3 recollection, no.

4 Q Okay. And similarly, there was -- you were never informed
5 about an unauthorized release of concrete that day?

6 MR. LUNDGREN: Objection. Vague, unauthorized.

7 MR. BERGER: Well, I'm -- I'm using that term because it
8 was used on direct examination. It was part of the answer what
9 kinds of situations drive -- or employees are trained to deal
10 with.

11 JUDGE WEDEKIND: Can you tell us what's the difference
12 between a spill and an unauthorized release?

13 THE WITNESS: I -- I --

14 JUDGE WEDEKIND: Do you know what it is, an unauthorized
15 release?

16 THE WITNESS: Well, I mean, a spill is -- a spill is
17 something happens where you -- let's -- in a -- in terms of a
18 truck, it could be a hydraulic hose blowing. It could be
19 concrete coming off the truck. It could be a myriad of things.
20 And it could be in the plant, out of the plant.

21 Q BY MR. BERGER: Okay.

22 A So in terms of this permit, an unauthorized release is --
23 means a very different thing.

24 Q Okay.

25 A Not -- so what -- I need to know what your question is.

1 Q Any of the things that you're talking about other than a
2 spill that are covered by the permit, did any of those things
3 happen on August 11th, to your knowledge?

4 A I still don't really understand your question.

5 Q Okay. Well, if I'm following correctly, you're talk --
6 you've mentioned there are various kinds of events that can
7 happen with concrete that have environmental implications other
8 than a spill. Do I have that wrong? I may just be
9 misunderstanding.

10 A I -- I was not told that there was any, like, unauthorized
11 water releases on that day.

12 Q I want to ask you a question about Delvo, and
13 particularly, the -- the section you mentioned of the permit,
14 S -- section S through F.

15 A Okay.

16 Q Do you personally know whether it constitutes a new
17 chemical -- there's a term, and we can look at it -- line --

18 MR. LUNDGREN: Can we get a page number, Counsel?

19 MR. BERGER: Yeah.

20 THE WITNESS: 13. Which is page 14 of the exhibit. There
21 you go.

22 Q BY MR. BERGER: Right. So the same paragraph that you
23 were testifying about in the middle of the page under 1(c), in
24 the last sentence, it says, the -- the permittee must notify
25 Ecology prior to use of any new chemicals, and it -- it goes

1 on. Do you happen to know whether Delvo would be a new
2 chemical as of 2017?

3 A No. I would -- Delvo's been around our industry -- I
4 mean, I started in 2006. I'm -- I recall hearing Delvo. So
5 it's been around for a while, and I know that it's a chemical
6 that -- or something that our company has used. So to answer
7 your question, I would not say it is a new chemical.

8 Q And I think what I understood you to be testifying on
9 direct was that the company and maybe individual officers could
10 be held liable by the Department of Ecology if they knowingly
11 and willingly release certain chemicals or process water into
12 the environment; is that right?

13 A If you knowingly and willingly vio -- take an act which
14 results in a violation of this permit, Ecology will hold you
15 accountable for that.

16 Q Okay. And do you have any personal knowledge of whether
17 taking actions that would result in the release of those
18 materials in order to deal with a strike meets the knowing and
19 willing standard that the Department of Ecology imposes?

20 A The issue here is if you know that you -- that there has
21 been a significant change in the process, but you don't consult
22 Ecology, knowingly and willingly choose not to consult Ecology,
23 that's where the issue is.

24 Q But --

25 A So if you consult Ecology and get their approval, they may

1 come back and say, sure, it's fine, discharge the water. But
2 if you -- if you choose not to consult, and in my mind it
3 had -- in this theoretical situation which did not happen,
4 this, in my mind, is a sig -- significant change.

5 If I, as the environmental manager, choose not to consult
6 Ecology because it's convenient either for me or for the
7 company, it's something the company wants to do, and I'm like,
8 okay, I'm not -- I'm going to do this, put my blinders on, I'm
9 knowingly choosing to violate the permit.

10 So that is -- that's going to be a problem, A, for the
11 company, and potentially for me as the environmental director.

12 Q Let me ask this. Do you personally know of any cases
13 where the Department of Ecology has addressed the knowing and
14 willing standard in the context of a strike -- of materials
15 discharged as a result of a strike?

16 A How would I know that? I don't --

17 Q Right. You don't.

18 A -- know the answer.

19 MR. BERGER: Okay. I have no further questions.

20 JUDGE WEDEKIND: Any redirect?

21 MR. LUNDGREN: Just wanted to clarify a question the
22 General Counsel asked.

23 **REDIRECT EXAMINATION**

24 Q BY MR. LUNDGREN: Mr. Hinck, who does the water testing?
25 Who actually performs the testing of the water at the Duwamish

1 plant as part of the wastewater process?

2 A So we process our water batch-wise, which means that we
3 treat a tank of water, which is a certain amount -- volume of
4 water, and release it. Treat it, test it, and release it.

5 On a day-to-day basis, we have -- there's again, I've
6 answered Rachel's question. There is at least two and possibly
7 three people at that plant that are trained to treat the water.
8 And they run the test manually at the plant. They have a pH
9 meter and a turbidity meter, and they test the loads every
10 time.

11 So and they keep a -- you know, they keep a record of it.
12 And -- but we're also required to report to Ecology on a --
13 every month, we have to -- we have to basically sample the
14 water, by rule -- there's a table in here -- twice a month and
15 test certain things and report that to Ecology.

16 On those occasions, we bring in a third-party independent
17 testing company that takes the samples, test the samples, and
18 that's the data we report to Ecology. So the tests that we do
19 on a batch-to-batch basis are really for, like, internal
20 quality control.

21 We're not cert -- we're not using a certified lab to do
22 those tests. We're using handheld pH meters or pH paper. But
23 those are good enough to know if we're in or out of compliance.
24 And again, that is beyond -- the permit does not require us to
25 do that. We do that because we want to make sure we never

1 release water from the plant that's out of compliance.

2 Q And in your experience, how common would it be to, at the
3 Duwamish plant, to break up and haul off 600,000 pounds of
4 abandoned concrete in any given day?

5 A I mean, again, you're asking an operations question. But
6 I mean, that -- to me, that's a lot of concrete in my mind, in
7 my -- in my experience.

8 MR. LUNDGREN: No further questions for me, Your Honor.

9 JUDGE WEDEKIND: Who do the -- who do the operations
10 people call if they have an emergency that they think is going
11 to have an environmental impact?

12 THE WITNESS: Good question. We have an emergency callout
13 response form or program in our company. And basically, the
14 plant manager -- let's say -- let's say it's the plant manager.
15 So the first person the plant manager calls is the
16 environmental manager. If the environ -- environmental manager
17 is not called, they have to call the environmental director.

18 So and if the environmental director is not called, they
19 we call General Counsel. And if General Counsel is not
20 available, they would call the president of the company. So we
21 have a callout sheet that lists, like, basically all the people
22 and their -- their responsibilities and who to call. So you
23 basically keep calling until you find somebody.

24 JUDGE WEDEKIND: And those -- what --

25 THE WITNESS: And that's -- that for communicating

1 internally what's happening. And ultimately, the plant manager
2 is charged with the responsibility. Like, if they are doing
3 something that has -- let's say it's a violation of a permit,
4 that they will make the call to Ecology if no one else is
5 available. But that has never happened.

6 JUDGE WEDEKIND: Okay. And I'm sorry if I missed --

7 THE WITNESS: Yeah.

8 JUDGE WEDEKIND: The manager, those first two you
9 mentioned, they were environmental people. Are those plants
10 people or are those corporate people?

11 MR. BERGER: They're plant.

12 THE WITNESS: Yeah. So --

13 JUDGE WEDEKIND: Okay. Go ahead.

14 THE WITNESS: Right. So the way CalPortland, or Glacier,
15 is set up is we -- we operate our -- it's by region. So the
16 Washington region has a -- we have a full-time environmental
17 manager that covers all the plants in the Washington region.

18 And then that environmental -- environmental manager
19 reports to the environmental director --

20 JUDGE WEDEKIND: Okay.

21 THE WITNESS: -- who's -- and then environmental director
22 reports to the General Counsel.

23 JUDGE WEDEKIND: Okay.

24 THE WITNESS: General Counsel reports to the president.

25 So in the case in 2017, I was the -- senior environmental

1 manager was my title. I reported to the environmental director
2 reporting to the General Counsel. The roles are different now
3 because I'm the environmental director now, so.

4 JUDGE WEDEKIND: Well, but you're not the first person on
5 this list?

6 THE WITNESS: They would have -- they would have called me
7 first.

8 JUDGE WEDEKIND: They would have called you first.

9 THE WITNESS: And then --

10 JUDGE WEDEKIND: Did anybody call you on August 11th?

11 THE WITNESS: No.

12 JUDGE WEDEKIND: But you were working that day. We know
13 that.

14 THE WITNESS: Yes.

15 JUDGE WEDEKIND: Okay. All right. You mentioned what you
16 thought was the safest way to deal with, you know, a large load
17 of concrete. You mentioned it twice. Is that what you train
18 the drivers and the managers to do, or --

19 THE WITNESS: Yeah. I mean, that would be part of the
20 training is, you know, when you have a lot of concrete come
21 back, you get it out of the trucks and you get it into the
22 designated area to harden up to get hauled off.

23 JUDGE WEDEKIND: And tell us again why -- why do you tell
24 them to do that?

25 THE WITNESS: Well, once the concrete hardens up, right,



1 it -- your -- it's becoming stabilized, right?

2 JUDGE WEDEKIND: I'm talking about environmentally.

3 THE WITNESS: Environmentally -- well, because that's
4 really the main option what you have. If you have -- if your
5 plant has a reclaimer, you can use the reclaimer. If the plant
6 doesn't have a reclaimer, then your option is to get the
7 concrete out of the truck into a bin to get -- let it hard up.
8 Save the -- make sure we save our equipment.

9 So you know, the instructions for using the reclaimer
10 really come down to, like, what's the capacity of the
11 reclaimer? And so the instructions typically to the drivers
12 would be, if you have a small amount of concrete and the plant
13 has a reclaimer, use the reclaimer. And if not, the -- the
14 primary way of dealing with concrete is to get it out of the
15 truck into the designated area to harden up, and then we haul
16 it off to be recycled.

17 JUDGE WEDEKIND: Doesn't the -- doesn't the reclaimer
18 require the use of water?

19 THE WITNESS: It does.

20 JUDGE WEDEKIND: Okay. Whereas dumping it in the, what do
21 you call it, the bunker?

22 THE WITNESS: Bunker.

23 JUDGE WEDEKIND: That doesn't really require water, just
24 dumping, does it? You still have to wash out the -- I'm sorry.
25 I'm asking you two quick questions.

1 THE WITNESS: No. That's okay.

2 JUDGE WEDEKIND: Is that -- is that correct or --

3 THE WITNESS: Yeah. That is correct. When you use the
4 reclaimer, you are generating water at the facility, which
5 then, to wash the sand and gravel and all that kind of stuff.
6 And you're generating this cement slurry that has to be dealt
7 with.

8 So the act of using the reclaimer, you generate water,
9 which then that creates a second task. We have to then collect
10 that water, handle that water, treat the water, discharge the
11 water. So if we have 15 trucks sitting there, and you're going
12 to run them all through the reclaimer, you're going to generate
13 a lot of water, which then you have to pre -- that you're going
14 to have to handle, right?

15 Whereas taking the concrete out of the trucks, putting
16 them in the bunker, no water has been generated. Like, you're
17 probably mid -- it's like the -- the least impactful thing to
18 do and the right thing to do for an operation.

19 JUDGE WEDEKIND: So the only water issue is just rinsing
20 out the -- the barrel afterwards, whatever you call it.

21 THE WITNESS: Yeah. Right.

22 JUDGE WEDEKIND: All right. Anything else?

23 MS. CHEREM: Nothing for General Counsel, Your Honor.

24 JUDGE WEDEKIND: Okay. Thank you very much.

25 THE WITNESS: All right. Thank you.

1 JUDGE WEDEKIND: We'll go off the record for just a
2 minute.

3 (Off the record at 11:06 a.m.)

4 JUDGE WEDEKIND: Respondent, your next witness?

5 MR. PAYNE: Employer calls Jessica Barkie, Your Honor.

6 JUDGE WEDEKIND: Good morning.

7 MS. BARKIE: Good morning. How are you?

8 JUDGE WEDEKIND: Fine. I'd ask you if you would state
9 your name and spell it for us.

10 MS. BARKIE: Jessica, J-E-S-S-I-C-A. Barkie, B-A-R-K-I-E.

11 JUDGE WEDEKIND: Okay. Thank you very much. If you raise
12 your right hand, I'll swear you in.

13 Whereupon,

14 **JESSICA BARKIE**

15 having been duly sworn, was called as a witness herein and was
16 examined and testified as follows:

17 JUDGE WEDEKIND: Thank you very much. Counsel?

18 **DIRECT EXAMINATION**

19 Q BY MR. PAYNE: Ms. Barkie, are you currently employed?

20 A Yes.

21 Q Where are you employed?

22 A Glacier Northwest.

23 Q In what capacity are you employed at Glacier?

24 A I am their lead dispatcher.

25 Q I'm sorry?



- 1 A Lead dispatcher.
- 2 Q All right. And what kind of business is Glacier in?
- 3 A We mine and sell gravel and sand, and we manufacture and
- 4 deliver ready-mixed concrete.
- 5 Q And to whom do you currently report?
- 6 A Greg Booths (phonetic throughout) the dispatch manager.
- 7 Q How long have you been employed at Glacier Northwest?
- 8 A 15 and a half years now.
- 9 Q And what are your current duties?
- 10 A I dispatch the Tacoma ready-mix drivers.
- 11 Q And in what positions have you been employed at Glacier
- 12 for these 15 years?
- 13 A I've been an order taker, a dispatcher, and now the lead
- 14 dispatcher.
- 15 Q Where is your work location as a dispatcher at Glacier?
- 16 A I work in Seattle at the Duwamish facility.
- 17 Q So were you working as a dispatcher at Glacier on --in
- 18 August of 2017?
- 19 A Yes.
- 20 Q And where were you working as a dispatcher in August of
- 21 2017? In other words, where was your work location?
- 22 A At the Duwamish facility in Seattle.
- 23 Q And to whom did you report as a dispatcher at Glacier in
- 24 August of 2017?
- 25 A That was Adam Doyle, the dispatch coordinator.

1 Q And what vehicles and drivers did you dispatch at the
2 Seattle location for Glacier in August of 2017?

3 A The Tacoma ready-mix drivers into the Pierce County
4 market.

5 Q Who is dispatching the Seattle-based ready-mix drivers?

6 A Shawn Jagnow.

7 Q And does Shawn Jagnow still work for Glacier?

8 A No.

9 Q When did he leave?

10 A In July 2020.

11 Q Have you ever dispatched the Seattle mixer drivers?

12 A Yes.

13 Q When did you dispatch the Seattle-based mixer drivers?

14 A From 2009 to 2016.

15 Q And what facilities would be included within that when I
16 say the Seattle-based dispatcher?

17 A Kenmore, Snoqualmie, and Seattle.

18 Q And when you say Seattle, is that Duwamish also?

19 A Yeah.

20 Q One in the same?

21 A Yes.

22 Q Okay. Were you working on August 11th, 2017, when a
23 Teamsters strike took place?

24 A Yes.

25 Q What shift were you working on this date?



1 A 5 a.m. to 1 p.m.

2 Q And where were you stationed on August 11th, 2017?

3 A I was in the dispatch office on the second floor of our
4 Duwamish facility.

5 Q So Okay. even though you were dispatching, at that
6 moment, the Tacoma drivers, you were still stationed at the
7 Duwamish site?

8 A Yes.

9 Q What direction were you facing when you were in your
10 dispatch office?

11 A My desk -- my desk faces south into the yard.

12 Q Okay. And were you able to see into the yard from where
13 you were dispatching?

14 A Yes.

15 MR. PAYNE: Could we -- could the witness be shown or
16 could we put on the screen Respondent Exhibit 3?

17 Q BY MR. PAYNE: Do you recognize this photo?

18 A Yeah. That's our Duwamish facility.

19 Q Okay. And I'm going to hand you a yardstick here to make
20 life a little easier.

21 A Okay.

22 Q And ask you, can you point to and tell us what you're
23 pointing to where your work location was?

24 A I work here where the D is, the dispatch office.

25 Q Okay. And can you tell us what direction you were facing



1 when you were working at that location?

2 A My window is right here, and I face south into the yard.

3 Q Okay. And how far was your work location from that
4 window?

5 A Oh. Less than six feet.

6 Q Did you have to stand up to see out your window or into
7 the yard or could you see out the yard see -- I'm sorry -- see
8 into the yard while you were sitting at your desk?

9 A No. I could just see into the yard.

10 Q And do you recall whether or not a driver strike occurred
11 at Glacier on August 11th, 2017?

12 A Yes. It did.

13 Q Did you see the strike start?

14 A Yes.

15 Q What time did that strike start, approximately?

16 A Just before 7 in the morning.

17 Q And at the time the strike started, did you see any
18 Teamster Union officials or representatives on the site at
19 Duwamish?

20 A Yes. I saw two of them.

21 Q Okay. And how do you know they were Teamster
22 representatives?

23 A Well, I've seen them around the yard before, and they
24 weren't CalPortland employees.

25 Q Okay. And where did you see these Teamster



- 1 representatives located?
- 2 A They were in front of the drivers' room on the balcony.
- 3 Q Okay. Can you, one -- one more time, point that --
- 4 A Yeah.
- 5 Q -- out to us?
- 6 A This is the drivers' room right here. And they were on a
- 7 balcony right here in front of it.
- 8 Q Okay. So the D.R., driver's room?
- 9 A Um-hum.
- 10 Q Okay.
- 11 A Yep.
- 12 Q And you called it the balcony. How far above ground level
- 13 is that balcony?
- 14 A Maybe three or four feet.
- 15 Q Okay.
- 16 A I haven't been there very often.
- 17 Q Okay. And you could see that from your window?
- 18 A Yeah.
- 19 Q Okay.
- 20 A My desk is right here.
- 21 Q And just before the -- what time in the morning did you
- 22 see them at the -- them being the Union officials, at the
- 23 drivers' room?
- 24 A About 6:45 in the morning.
- 25 Q Okay. And just before the strike started, did you see any

1 Union business representatives do anything at the time the
2 strike started?

3 A Yeah. They were on the balcony, and they made a slashing
4 motion across their throat with their hand.

5 Q Okay. How many people made this slashing motion across
6 their throat?

7 A One.

8 Q One?

9 A Yeah. I saw -- I saw one guy do it, yes.

10 Q Okay. And can you demonstrate that gesture, please?

11 A Yeah. He did this.

12 MR. PAYNE: Okay. Let the record reflect the slash across
13 the throat.

14 Q BY MR. PAYNE: And where was the Union representative at
15 the time of that gesture?

16 A He was on the balcony in front of the drivers' room.

17 Q Are you sure he wasn't just yawning or waving or anything
18 like that?

19 A Yeah. I'm positive.

20 Q Okay. After the gesture was made, where did the Union
21 representatives go next, if you saw them?

22 A They walked down the steps of the balcony, and they
23 congregated by where the drivers parked their personal
24 vehicles, which is just in front of the drivers' room.

25 Q Okay. After the gesture was made, did you see what

1 happened next with the Seattle drivers?

2 A Yes.

3 Q What did you see?

4 A The drivers that were in the yard lined up. You can see
5 the mixer trucks along the water. They line up there. Those
6 ones there shut off their mixer trucks, grabbed their stuff,
7 got out of their mixer trucks and walked over in front of the
8 drivers' room where the Union reps were.

9 Q Okay. When you say grab their stuff, what are you
10 referring to?

11 A Lunch bags, coats, personal belongings that were in the
12 trucks.

13 Q Okay. And can you just point out on the photograph where
14 they -- where they were and where they went to, please?

15 A Yeah. So this is where the trucks line up when they come
16 into the yard. And the drivers that were lined up there,
17 they'll shut off their mixer trucks, got out, and walked over
18 here where the Union reps were. And then later morning, they
19 walk out here to where they did a picket line.

20 Q Okay. So let's start with along the Duwamish, there's
21 about five or six trucks. Is that the trucks you're referring
22 to?

23 A Yep. Right here.

24 Q Okay. And they got out and they walked toward what
25 direction?

- 1 A Right over here to the drivers' room.
- 2 Q Okay. And from there, where did they go?
- 3 A Then they went out to their picket line.
- 4 Q Okay. And what's that label out there, inbound?
- 5 A Inbound, yeah.
- 6 Q Okay. And you saw all this?
- 7 A Yeah.
- 8 Q Okay. Did you know that a strike was starting?
- 9 A Yes.
- 10 Q How did you know that a strike was starting?
- 11 A Well, I saw the gesture that was made by the Union rep.
- 12 Then I saw all the guys get out of their trucks that were in
- 13 the yard, and it was announced on the radio to their drivers
- 14 that they were on strike.
- 15 Q Okay. So you're in dispatch, and you said it was
- 16 announced on the radio. Are you in a position to hear what
- 17 gets announced on the radio?
- 18 A Yes.
- 19 Q And how is that? How far removed from the radio?
- 20 A The radio, it's less than eight feet from me.
- 21 Q Okay. And so even though you're dispatching Tacoma
- 22 drivers, you can hear what's happening on the radio?
- 23 A Yeah.
- 24 Q Okay. And is Shawn Jagnow in the same vicinity as you, or
- 25 is he on the other side of the office, or where was he?

1 A Shawn was about eight feet from me. The radio is right
2 next to him on his desk. And then I'm over here on this side
3 of the room.

4 Q Could you hear what was being said over the radio?

5 A Yes.

6 Q And by the radio, I assume this is the radio where drivers
7 communicate with dispatch; is that correct?

8 A Yes.

9 Q Okay. After the strike started, did you hear anyone from
10 the company in dispatch over the radio give Seattle drivers any
11 instructions?

12 A Yes.

13 Q Who did you hear?

14 A Adam Doyle.

15 Q Okay. And what -- who again was Adam Doyle?

16 A Adam Doyle was the dispatch coordinator, and he told the
17 drivers that they were obligated to finish jobs that we've
18 started.

19 Q Okay. He said that over the radio?

20 A Yes.

21 Q After the strike started, did you see any mixer trucks
22 return back to the Duwamish yard?

23 A Yes. All of them did.

24 Q Okay. Can you tell me what activities you saw when a
25 mixer drivers returned to the yard?

1 A They came in -- the ones I could see coming in were
2 through the back gate. So where that inbound is. And they
3 came in that way, and they parked all over the yard. They're
4 just parked willy-nilly. Some were blocking each other in, and
5 some of them left their trucks running. Some shut them off.
6 And then the drivers got out and went to the picket line.

7 Q Okay. When you said they were parked willy-nilly, what do
8 you mean by that?

9 A Well, it wasn't in an orderly fashion like you see there
10 where they're lined along the Duwamish or they're over here in
11 the parking area or in front of the shop. They weren't all
12 lined up nicely like that. They were parked all over the
13 place.

14 Q Okay. And what did you see the drivers do when they
15 arrived?

16 A They got out of their trucks and went to the picket line.

17 Q Did you see any of the drivers take their trucks out back
18 to the -- to the parking yard on West Marginal Way?

19 A No.

20 Q Okay. Would it be fair to characterize these makeshift
21 trucks as having been left by the drivers?

22 MR. BERGER: Objection. Leading.

23 JUDGE WEDEKIND: It sounds leading to me.

24 Q BY MR. PAYNE: Who went to see the drivers who -- after
25 they pulled in with their mixer trucks.

1 A Then they parked them all over the yard, they got out of
2 their trucks, and then they went to the picket line.

3 Q Did you have any advance knowledge that a strike was going
4 to happen at Glacier on August 11?

5 A No, sir.

6 Q And over what period of time did you see these trucks
7 coming back after the strike began?

8 A I would say they were all back within an hour but I wasn't
9 watching the clock that closely.

10 Q Were they're coming back bumper to bumper to bumper or
11 how --

12 A No.

13 Q -- how were they coming back?

14 A No. Because they were all in different places, so they
15 weren't all coming back in a line.

16 A Okay. And how many trucks did you see coming back into
17 the facility?

18 A All of them did.

19 Q And about how many was out in total?

20 A I'd say around 50.

21 Q Okay. Did you see any of the drivers wash out their
22 shoots or wash out their barrels when they came back?

23 A No.

24 Q And when a driver's shift normally ends, what does he do?

25 A He goes out back, rinses out his truck, does his

1 paperwork, drives to wherever he parks, whether it's this front
2 line here or across the river, parks his vehicle and then
3 clocks out for the day.

4 Q Did you go out into the yard that morning after 7 a.m.?

5 A No, sir.

6 Q Did you talk to any of the drivers that morning?

7 A No.

8 Q Did you see any of the, what I'll call cleanup process
9 take place after the strike started?

10 A Yes.

11 Q What did you see?

12 A I saw Dave Siemering, the plant superintendent. He was
13 down in front of the dispatch office where the D (phonetic)
14 was. And he was directing operators, laborers, and mechanics
15 on where to take the trucks so that they could get the cleanup
16 process going.

17 Q Okay. Can you point to us where you saw Dave Siemering?

18 A He's out here, outside.

19 Q Okay. And by down here, you mean just, I guess that --

20 A Down --

21 Q -- would be the south of the dispatch office?

22 A Yes, just south of it. When you come out the dispatch
23 office, there's a ramp that goes down this way, or stairs that
24 go down this way. So he was down here.

25 Q Okay. Were you there for the so-called cleanup process?

1 A Yes. What did you see taking place?

2 A Dave Siemering was directing the operators, the laborers,
3 the mechanics, where to take the trucks, based on if they had
4 retained, off-load or a full load of concrete on, or if they
5 just needed to be washed out and parked. So he was directing
6 that.

7 Q How long did that process take that you saw?

8 A At least four to five hours.

9 Q Okay. As a Seattle dispatcher, did you ever encounter
10 trucks with retain back in 2017?

11 A Yes.

12 Q What was the normal practice in dealing with trucks coming
13 back with retain?

14 A Normal practice was the driver would call you and let you
15 know if he had retain on board and how much it was. And he
16 would tell you if it was boxable or not. And then we would
17 give him a direction on what to do with it. If it was less
18 than two yards, he could bring it back to our yard. And it was
19 more than that. Then we would direct him to either Renton
20 Recyclers or Ultrablock.

21 Q Okay. So the driver would call you. At what point would
22 he call you? When he's on the job? When he's in the yard?
23 When would we typically call?

24 A It would -- when he finished the job. Before he left the
25 job site?

1 Q Okay. And he would call you to tell you what now?

2 A He would call us and tell us if he had retain still on
3 board.

4 Q Okay.

5 A And how much was left on board, two yards, three yards,
6 whatever it happened to be. And then he would let us know if
7 it was boxable or not. And then we would give directions from
8 there.

9 Q Okay. When you use the word boxable, what do you mean by
10 that?

11 A It is concrete left on board that can be put into an eco-
12 block form.

13 Q Okay. And is there some type of concrete that can be put
14 into an eco-block?

15 A Yeah. Like you wouldn't put CDF into an eco-block form
16 because that is just -- you would -- could dig it out later.
17 It doesn't firm up, and you wouldn't put shotcrete in there.
18 Or if the load is really old, you wouldn't put it in there if
19 they need to get it off right away.

20 Q Okay. Why -- why wouldn't you put it in ecology block if
21 you think the load is really old?

22 A If they needed to get the load off right away --

23 Q Okay.

24 A -- and they don't have a lot of time to work with it, then
25 you wouldn't spend that 20 minutes making an ecology block.

1 Q Okay. Why? What's the concern?

2 A You don't want that concrete to get hard in that mixer.

3 Q All right. Now, if it's more than three yards, where did
4 you say you send the driver to?

5 A Ultrablock, which is --

6 JUDGE WEDEKIND: I'm sorry, did you say over two or three?

7 THE WITNESS: Two. Over two yards.

8 Q BY MR. PAYNE: Okay. Pardon me.

9 JUDGE WEDEKIND: So it's over two yards, I'm sorry. Go
10 ahead.

11 A If it's over two yards, we'd send it to either Ultrablock,
12 three to over two yards, which is in Seattle, about ten minutes
13 from our facility. And they make eco-blocks there. Or we
14 would send it to Renton Recyclers.

15 Q BY MR. PAYNE:

16 Q And what do they do with it, if you know?

17 A I don't know what they do with it. We dump it on the
18 ground and they do whatever it is they do with it.

19 Q Okay. And did you ever send trucks to the refinery?

20 A Yes.

21 Q Under what circumstances would you do that?

22 A I have -- the material wasn't boxable and they had just a
23 couple of yards or less on, we'd send them out back. And then
24 the yard guys would tell them to either put it through the
25 reclaimer or dump it on the ground.

1 Q Okay. And sitting where you were on August 11th, could
2 you hear calls on the radio after the strike started?

3 A Yes.

4 Q And do you recognize the voices of these Seattle drivers?

5 A Yes.

6 Q How is it you recognize the voices of the Seattle drivers?

7 A I've been doing this a long time.

8 Q Okay.

9 A It's my job to listen to them on the radio.

10 Q How many years you been --

11 A You know their voices.

12 Q -- had you dispatched with them directly?

13 A Directly, seven years.

14 Q Okay. And even when you weren't dispatching them, could
15 you hear their -- their voices over the radio?

16 A Yes, yeah.

17 Q And from what locations in King County, could you hear the
18 drivers over the radio?

19 A Seattle, Kenmore and Snoqualmie.

20 Q What percentage of the Seattle trucks, when you were
21 dispatching Seattle, would you estimate came back with retain?

22 A Maybe 15 percent of them?

23 Q And based on your experience as a dispatcher, do you have
24 a working knowledge of how long it takes after batching for
25 concrete to begin to set up in a truck?

1 A Yeah. About 90 minutes to two hours.

2 Q What are you basing that on?

3 A That is how we've always scheduled our trucks. We've used
4 that as a parameter that the load will be on site for hour,
5 hour and a half, and then we'll be getting that truck back
6 because concrete starts to get hard, so.

7 Q Okay. And would you get a -- how would you know that
8 concrete is getting hard in a truck?

9 A The driver would tell us.

10 Q Okay. Give me an example.

11 A So if they're on site for a long time, they might call us
12 and tell us that their load is starting to set up and they need
13 to get it off right away. That's when we would step in and
14 call a customer and let them know they either can offload it
15 right away or we got to take the truck and get the load off.

16 Q Okay. And what time frame does that call normally happen
17 after batching?

18 A Usually within 90 minutes, may -- it might go up to two
19 hours but usually within 90 minutes.

20 Q And what did you do about that?

21 A I would call the customer and let them know they needed to
22 hurry up or we had to pull the truck off the site.

23 Q And if pulled the truck off, what would you do?

24 A They would either take the load to Renton Recyclers or
25 bring it back to the yard and take it out back.

1 Q Following your instructions, I gather?

2 A Yeah.

3 Q Okay. Can we go off the record for just a moment, Your
4 Honor?

5 JUDGE WEDEKIND: Sure. Off the record.

6 (Off the record at 11:36 a.m.)

7 Q BY MR. PAYNE: Ms. Barkie, do you recognize this
8 document I just handed you, first of all?

9 A Yes.

10 Q Can you tell us what it is, please?

11 A It is a transcription of the radio transmissions from that
12 day.

13 Q From what day?

14 A From August 11th.

15 Q Okay. And have you listened to the actual radio
16 transmission itself in preparation for this hearing?

17 A Yes.

18 Q And could you hear the radio transcription on August 11th
19 as well?

20 A Yes.

21 Q Okay. So I'm going to play the actual recording for you
22 and maybe we can go -- walk through this first of all and just,
23 so that everyone can hear the recording, we can enter it into
24 evidence. And then later I will ask you specific questions
25 about who the speakers are?

1 A Sure.

2 Q Are you with me?

3 A Yep.

4 Q Okay.

5 MS. CHEREM: Wait. Just to be clear. So we're going to
6 go through and play the recording and do a side-by-side with
7 the transcription.

8 MR. PAYNE: Yes.

9 MS. CHEREM: Okay.

10 MR. PAYNE: Okay. Thank you. Ross, can you go ahead
11 please?

12 (Audio played at 11:39 a.m. not transcribed)

13 MS. CHEREM: Excuse me. Are we going to pause or are we
14 just going to listen?

15 MR. PAYNE: Were going to go through it. And then we're
16 going to have her tell us who the speakers are after.

17 MS. CHEREM: For clarity, could we stop and do it as it --

18 JUDGE WEDEKIND: Let's just stop for a second. Can we
19 stop it?

20 (Audio stopped at 11:40 a.m.)

21 JUDGE WEDEKIND: Okay. So we have names written on this?

22 MR. PAYNE: Yeah. Maybe -- maybe the better way to do it
23 is just do a clean one first and then to have her explain who
24 the names are.

25 JUDGE WEDEKIND: Okay. And you all -- you haven't

1 stipulated who these people are yet?

2 MS. CHEREM: No. We -- this is the first time we're
3 seeing the identified people. The recordings don't have the
4 name identifiers. Again, we did have our own transcription,
5 which largely agrees with what was transcribed, but we don't
6 have name identifiers for people.

7 MR. PAYNE: So why don't we do this, Your Honor? Here's
8 my suggestion. We'll do a version without the names first.
9 And then we will have the witness identify the speakers
10 after -- without replaying the whole thing, just identify who
11 these speakers are?

12 MS. CHEREM: Well then how --

13 MR. PAYNE: That would be my suggestion.

14 MS. CHEREM: How would you be able to identify the
15 speakers without listening to it?

16 MR. PAYNE: Because she knows the individuals and she can
17 tell us who they are.

18 JUDGE WEDEKIND: Are we still on the record?

19 THE COURT REPORTER: We are.

20 JUDGE WEDEKIND: Okay. Let me -- can I ask a question?

21 MR. PAYNE: Sure.

22 JUDGE WEDEKIND: Are you the one that put the names --
23 said whose these names are?

24 THE WITNESS: Yes, sir.

25 JUDGE WEDEKIND: Okay. So she -- she's the one who

1 prepared this already and put the names on it?

2 MR. PAYNE: Yes.

3 THE WITNESS: Yes.

4 JUDGE WEDEKIND: Okay. So -- does that -- and you did
5 that when?

6 THE WITNESS: Last week. I listened to the recordings and
7 put the names of who -- the voices I recognized. I put their
8 names on there.

9 JUDGE WEDEKIND: Okay. And if you didn't recognize
10 them -- or some that you didn't recognize?

11 THE WITNESS: I left those blank.

12 JUDGE WEDEKIND: Just left them blank?

13 THE WITNESS: Yeah. Okay.

14 JUDGE WEDEKIND: Okay. In light of that, any problem with
15 us just proceeding --

16 MS. CHEREM: That -- yeah, I just didn't have any of that
17 context --

18 JUDGE WEDEKIND: Well, no. I understand. No.

19 MS. CHEREM: -- and this was the first time I had seen the
20 report. I would like to have a separate copy that's clean
21 without the names as a separate exhibit.

22 MR. PAYNE: I have a clean copy as well, Your Honor.

23 JUDGE WEDEKIND: Do you mind giving it to --

24 MR. PAYNE: No.

25 JUDGE WEDEKIND: Okay.

1 MS. CHEREM: I mean, I would like that on the record, I
2 think.

3 MR. MERRITT: Okay. 24 is marked. 24 has no names on it.
4 25 has the names on it.

5 MR. LUNDGREN: So we marked both the clean and the copy
6 with names and accept them as exhibits?

7 MS. CHEREM: Yeah. I would -- I would prefer to have a
8 clean copy in the record and the ones with the names,
9 separately.

10 MR. LUNDGREN: Respondent's Exhibit 24 is -- is --

11 MR. PAYNE: Is clean.

12 JUDGE WEDEKIND: -- is the copy that does not have names
13 on it. Respondent Exhibit 25 is the copy with names. And I
14 don't believe either has been offered yet?

15 MS. CHEREM: No, it hasn't.

16 MR. LUNDGREN: He's laying the foundation for the offering
17 of both.

18 MS. CHEREM: Right.

19 JUDGE WEDEKIND: All right. So we're still on the record,
20 I assume? Go ahead.

21 MS. CHEREM: Okay. So I've -- procedurally, what are we
22 doing right now?

23 MR. PAYNE: We're going to continue --

24 JUDGE WEDEKIND: Since she's the one that wrote the names
25 in there a week ago --

1 MS. CHEREM: Yes.

2 JUDGE WEDEKIND: I don't see any reason why she can't just
3 follow along.

4 MS. CHEREM: Well, I guess my question is, are we going to
5 listen to this whole audio and just have her sit and listen to
6 the whole thing together or are we stopping after each thing to
7 confirm that it's right or are we just saying she's already
8 listened to the audio and this is what she said? I just don't
9 know which of those avenues we're taking.

10 JUDGE WEDEKIND: If I might, it might save time. Let me
11 just ask -- she did this a week ago, she testified already.

12 MR. PAYNE: That's correct. In preparation for today's --

13 JUDGE WEDEKIND: All right. Is there any particular
14 reason -- she just testified that. So is there any particular
15 reason we need to play it out loud and have -- go over it
16 again?

17 MR. PAYNE: As long as Your Honor sees it -- concern was
18 what was transmitted and can she identify the speakers for
19 purposes of what was happening that morning? If the quicker
20 and more efficient way of doing it is fine, we can just go
21 through it with the written document in front of her and have
22 her identify the speakers. That's fine, too.

23 JUDGE WEDEKIND: I don't mind going ahead -- doing this if
24 there's no objection.

25 MS. CHEREM: I just want to understand, like, I'm still

1 not clear as to what we're about to do. So I would like to
2 understand that.

3 MR. LUNDGREN: Well, if I -- I mean, typically you -- you
4 don't -- we don't tell you what we're going to do. When we --
5 when you do something --

6 MS. CHEREM: No, no. I just want -- I get that.

7 MR. LUNDGREN: We're just going to play the audio --

8 MS. CHEREM: But we're not doing it, so I want to know
9 what's happening.

10 MR. LUNDGREN: -- let me speak for a moment. He's going
11 to play the audio. It's important evidence in this case. It's
12 not -- I think it's probably a 45-minute process. That's what
13 it was when I did it. And -- and hearing it chronologically
14 is -- is important. And then to, of course, make the review
15 easier, you know, we have -- he's had names put in by a witness
16 with knowledge so that you don't have to listen to it every
17 time, if you want to know what was said. But I think there's
18 value in playing it.

19 JUDGE WEDEKIND: The question is, is it helpful to you and
20 to me is -- do you have an objection to playing it? Do you
21 think that's helpful in order for you to cross-examine her
22 about this document or are you happy just accepting her
23 testimony? "I listened to it last week. I put down the names.
24 I thought he was talking." That's it.

25 MS. CHEREM: I -- I don't see a need to listen to the

1 recording. She's, you know, we have --

2 JUDGE WEDEKIND: Okay.

3 MS. CHEREM: -- a separate --

4 JUDGE WEDEKIND: How about from you?

5 MR. BERGER: The same -- if there are going to be
6 questions about the substance of the -- the content of what was
7 said, then I could see the purpose of listening to it. But
8 absent that, there's already been a basis for establishing the
9 witness's knowledge of the -- the speakers. So there -- and if
10 there's no other questions, there's -- it's already -- can be
11 put into the record.

12 MS. CHEREM: And -- and the recordings are in the record.

13 JUDGE WEDEKIND: Oh, they are. Okay. So that's my
14 inclination, too. Why take the 45 minutes if we don't have to?

15 MR. PAYNE: I'm sorry, Your Honor, I didn't hear you.

16 JUDGE WEDEKIND: That's my explanation as well. I don't
17 understand why we -- why should we take the 45 minutes if we
18 don't have to?

19 MR. PAYNE: Well, I guess we can all listen to it after
20 the trial again. It seems to me that what I wanted to make
21 sure we convey is the back and forth that was going on that
22 morning. It can be conveyed in a written document or which
23 would be verbally or orally over the radio. I thought probably
24 the most effective way to do this would be to play it with the
25 transcript without Ms. Barkie's edits, and then have her go

1 ahead and explain her edits. And when I say edits, I mean
2 names of the speakers.

3 JUDGE WEDEKIND: Okay. But counsel for the other side has
4 always indicated that they're willing to accept her testimony
5 for what it is now, without going through that process. They
6 may cross-examine her and have some objection later --

7 MS. CHEREM: Right, like --

8 JUDGE WEDEKIND: -- contrary testimony. But as for now,
9 as far as admitting the documents, if the recordings are
10 already in evidence, you said, right?

11 MS. CHEREM: The recordings in evidence, just not as an
12 exhibit.

13 JUDGE WEDEKIND: This is not, okay.

14 MS. CHEREM: Correct.

15 JUDGE WEDEKIND: So -- because -- because the recording
16 doesn't indicate who's talking.

17 MS. CHEREM: Correct.

18 JUDGE WEDEKIND: So the transcript does, based on this
19 witness's testimony.

20 MS. CHEREM: Yeah, so --

21 JUDGE WEDEKIND: And I don't want to take any more time on
22 this because we're not going to save time. My inclination is,
23 if we don't need to play it, unless you -- unless you need
24 clarification. There's no need to -- to play it.

25 MR. PAYNE: I don't need clarification, Your Honor.

1 JUDGE WEDEKIND: All right.

2 MR. PAYNE: We're just trying to find what I thought was
3 probably the easy -- best way to do.

4 JUDGE WEDEKIND: That's fine but we just talked it
5 through. That's fine. So would you like to offer the
6 documents?

7 MR. PAYNE: Yes, I'd like to offer both 24 and 25.

8 JUDGE WEDEKIND: All right. Any objection?

9 MS. CHEREM: One moment, Your Honor.

10 JUDGE WEDEKIND: Sure.

11 MR. BERGER: No objection.

12 JUDGE WEDEKIND: Okay.

13 MS. CHEREM: And I may have a -- I have no objection, but
14 with the caveat that we're still have those few places where
15 our transcription mismatched there's and I would like time to
16 go through the respondent with that or to provide a
17 supplemental transcript.

18 JUDGE WEDEKIND: That's fine. You'll have an opportunity
19 to do that. So 24 and 25 are received. Thank you.

20 **(Respondent Exhibit Numbers 24 and 25 Received into Evidence).**

21 Q BY MR. PAYNE: Ms. Barkie, I'm going to call your
22 attention now to Exhibit 25, which is the one that has your
23 handwrit -- your typed in names on it?

24 A Um-hum.

25 Q Are you with me?

- 1 A Yes.
- 2 Q Okay. I'm going to ask you who these individuals are,
3 please?
- 4 A Okay.
- 5 Q And let's start with what's labeled page 2. Okay. Damon,
6 Sheff, who is he?
- 7 A Kenmore driver.
- 8 Q And the word Jagnow, who is that?
- 9 A That was Shawn Jagnow, the Seattle dispatcher.
- 10 Q And further down on the page, on line 24, there's the name
11 Allen Marple. Who is that?
- 12 A He was a Seattle driver at that time.
- 13 Q Okay. Now, calling your attention to page 3. I see
14 Jagnow at top again and --
- 15 A Yup.
- 16 Q -- on line 4, who is Andy Sullivan?
- 17 A A Seattle driver.
- 18 Q And then, line 6, Mark Hislop.
- 19 A A Seattle driver.
- 20 Q And line 14, is Hislop again. Line 20, Miles Mayer?
- 21 A A Seattle driver.
- 22 Q Line 23, Eric Stiverson?
- 23 A Seattle Driver.
- 24 Q Okay. We'll go to page 4 now. Line 2, Byron Baker?
- 25 A He was a Seattle driver.

1 Q I see Jagnow again, Byron Baker again, Jagnow again, Byron
2 Baker again, Jagnow again. And then down on line 34, Adam
3 Doyle?

4 A He was the dispatch coordinator.

5 Q Now, at the top of the next page, page 5, Adam Doyle
6 again; is that correct?

7 A Yes.

8 Q Did you hear this transmission from Adam Doyle on lines 1
9 through 4?

10 A Yes.

11 Q And did he say it out over the radio so all drivers could
12 hear it?

13 A I don't --

14 Q Was it on all channels?

15 A I don't know what channel he was on.

16 Q Okay.

17 A I could just hear him saying it.

18 Q Okay. And was he standing near you when he said it?

19 A Yes. He was about six feet away from me.

20 Q Okay. Line 25, there's the name Jeff Harris?

21 A Kenmore driver.

22 Q On the top of page 7, there's a name, Nate Person?

23 A Seattle driver.

24 Q Okay. There's a reference to, "Consequences are
25 consequences," on line 8. Have you had an opportunity to

1 review that recording again and have you made a decision as to
2 who said that?

3 A Yes. I listened to it again and it's the same one -- can
4 I curse in court?

5 Q I can't hear you?

6 A Can I curse in court? Line 2 that says, "Leave the fucker
7 running." And then line 8, "Consequences are consequences."
8 When I listen to it again, it sounds like Dan Bone to me.

9 Q Okay.

10 A He was a Seattle driver.

11 JUDGE WEDEKIND: So that's line 1 -- or 2 and line 6 to 8?

12 THE WITNESS: Yes. Yes, sir.

13 Q BY MR. PAYNE: Okay. Going down to Line 20, Dave Boshart,
14 do you know who he is?

15 A Yes. Seattle driver.

16 Q Line 22, Dave Myers, do you know who he is?

17 A Seattle Driver.

18 Q And we're on page 9.

19 JUDGE WEDEKIND: Did we skip page 6?

20 MR. PAYNE: Pardon me?

21 MR. LUNDGREN: The copy is double sided.

22 JUDGE WEDEKIND: I think we skipped page 6.

23 THE WITNESS: I think we did, too.

24 JUDGE WEDEKIND: So before we got to page 7 dealing with
25 line 1 and all that. So that would have been after --

1 MR. PAYNE: Oh, page 6?

2 THE WITNESS: Yeah.

3 JUDGE WEDEKIND: So wait a minute.

4 Q BY MR. PAYNE: Okay. Can we go back to page six.

5 A Yep. I'm there.

6 JUDGE WEDEKIND: So after Jeff Harris, would be page 6,
7 right?

8 Q BY MR. PAYNE: Okay. Do you know who Mike Moore is on
9 line 5?

10 A Yes. He's a Seattle driver.

11 Q Blaine Elledge on line 8?

12 A He's can Kenmore driver.

13 Q Billy Roark on line 19?

14 A A Seattle driver.

15 Q I believe we're now on page 8.

16 JUDGE WEDEKIND: I just have to ask a couple questions.
17 So if, like, for example, after Billy Roark, we've got three
18 more speakers, does that indicate that they're all the same
19 person? Or is that somebody else you just didn't know who they
20 were?

21 THE WITNESS: If I didn't recognize the voice or if I
22 wasn't a hundred percent certain, then I wouldn't put a name
23 them there.

24 JUDGE WEDEKIND: Okay. So if -- it had been Billy Roark
25 again, you would have put his name again?

1 THE WITNESS: Yes, exactly.

2 JUDGE WEDEKIND: Thank you.

3 Q BY MR. PAYNE: Okay. We're now on page 8. I don't know
4 if we've covered any yet. At line 1, who is that?

5 A Dave Meyers. That's the Seattle driver.

6 Q Line 10?

7 A Andy Sullivan. He was a Seattle driver.

8 Q Line 17?

9 A Troy Thorpe. He was a Seattle driver.

10 Q And line 22?

11 A Dean Valenta. He is a Seattle driver.

12 Q Let's go to page 9 now. We've covered Myers. We've
13 covered Baker. Rick Lavera on line 6?

14 A He was a Kenmore driver.

15 Q Brian Wimmer on line 17?

16 A He was a Snoqualmie driver.

17 Q There's a reference on line 17 also to "Go ahead, John."
18 Do you under -- did you listen to that tape -- that recording?

19 A Yes. And that was, if you look at line 15, and it says,
20 "615 Bryant (sic)." That was Shawn saying "615, Brian." And
21 then line 17 was Brian Wimmer responding back. "Yeah, go
22 ahead, Shawn."

23 Q So the word "John" should be "Shawn" --

24 A It should be "Shawn," yes.

25 Q -- back there?

1 MS. CHEREM: Just for clarification, is it "Bryant," on
2 line 15? Should that be "Brian"?

3 THE WITNESS: "Brian," yeah.

4 MS. CHEREM: Okay.

5 THE WITNESS: Yeah.

6 MS. CHEREM: So it should be, "615, Brian," --

7 THE WITNESS: Yeah.

8 MS. CHEREM: And then, "Go ahead, Shawn"?

9 THE WITNESS: Yes.

10 MS. CHEREM: Okay.

11 Q BY MR. PAYNE. Okay. You with me?

12 A I'm with you.

13 Q Okay. So after it say, "Go ahead, Shawn," That's Brian
14 Wimmer speaking?

15 A Yes.

16 Q Okay. And then Jagnow responds.

17 A Yes.

18 Q Okay. And we then have Wimmer, Jagnow, and Harris again?

19 A Yes.

20 Q Let's go to the page -- top of page 10. I think you've
21 covered it, but Dave Meyers again?

22 A Seattle driver.

23 Q Andy Sullivan?

24 A Seattle Driver.

25 Q On the top of page 11, line 3, there's a name James

1 Dreifus. Do you know who that is?

2 A That is Jimmy. He's our Snoqualmie batch guy.

3 Q Is he represented by Teamsters 174?

4 A No. I think he's -- I think he's part of 302.

5 Q 302 meaning what union?

6 A Union 302. I don't -- the operators union.

7 Q Operating Engineers?

8 A Yeah.

9 Q Okay. Thank you.

10 A I don't really do anything with -- with that.

11 Q Okay. Line 19, there's Blaine Elledge?

12 A Kenmore driver.

13 Q Line 23, I believe you covered it, Jeff Harris?

14 A Kenmore driver.

15 Q Okay. Let's go over to page 12. Okay. We have Myers,

16 Myers, Sullivan, and then on line 21, Dave Boshart?

17 A Seattle driver.

18 Q Let's go to page 13. We have Dave Myers on line 3, again.

19 A Um-hum.

20 Q What --

21 A Seattle driver.

22 Q Mike Sullivan (phonetic throughout).

23 A Yeah, he's the Seattle driver.

24 Q And that was on line 8?

25 A Yes, sir.

- 1 Q Let's go now to page 14, up at the top, Dave Gaydosh?
- 2 A He's a Seattle driver.
- 3 Q Let me ask you a question about line 3, "Hey, John, where
- 4 do you want all of this?" Do you know who that John is
- 5 referring to? To the best of your knowledge.
- 6 A I didn't recognize the voice of the driver. I'm going to
- 7 assume he was referring to John Downs, but without knowing who
- 8 the driver was that said that, I couldn't say for sure.
- 9 Q Okay. Let's -- let's cover John Downs for a moment. And
- 10 who is John Downs?
- 11 A He was the batch guy in Kenmore
- 12 Q Teamsters or not?
- 13 A Teamsters.
- 14 Q John Downs is a batch guy and a Teamster?
- 15 A I think -- I would think so. But I guess I don't know.
- 16 Q Okay.
- 17 A I don't have an answer to that.
- 18 Q Okay. Okay, and then there's another reference to John
- 19 Downs on line 10?
- 20 A Yes.
- 21 Q Is that the same John Downs we've talking about?
- 22 A Yes.
- 23 Q He's at Kenmore?
- 24 A Yes.
- 25 Q Okay. Okay, let's go now to page 15. We talked about

1 Downs. We've covered Rick -- Rick Lavera works out of what
2 plant?

3 A He used to work out at Kenmore.

4 Q Kenmore. Mike Sparrow on line 14?

5 A He's a Seattle driver.

6 Q Okay. And let's go to the page 16, down near the bottom,
7 line 24, Josh Viramontes?

8 A Josh is the Seattle driver.

9 Q Page 17, Ricardo Martinez?

10 A He used to be a Seattle driver.

11 Q Line 8, Mark Shipley?

12 A He was a Seattle driver at that time.

13 Q I believe that's the end of all of the pages with the
14 entries. Does this document that we just went over containing
15 your representation of the names -- the speakers accurate to
16 the best of your knowledge in terms of the names of the
17 speakers?

18 A Yes.

19 MR. PAYNE: We move for the admission of 24 and 25, if
20 they're not already in.

21 JUDGE WEDEKIND: They're already in. Any voir dire based
22 on those entries and testimony?

23 MR. BERGER: No.

24 MS. CHEREM: No, Your Honor, further questions later.

25 JUDGE WEDEKIND: Okay

1 MR. PAYNE: No further questions, Your Honor.

2 JUDGE WEDEKIND: Cross?

3 MS. CHEREM: Yes. I do have questions. It's noon. I
4 don't know what we want to do in terms of taking a break.

5 JUDGE WEDEKIND: Well, I assume she would probably get --
6 get it over with.

7 THE WITNESS: I'd rather just finish up.

8 JUDGE WEDEKIND: Yeah --

9 MS. CHEREM: Okay.

10 JUDGE WEDEKIND: -- that's fine. Let's just proceed.

11 MS. CHEREM: That's fine with me. Can I just have a
12 minute off the record?

13 JUDGE WEDEKIND: Sure. Off the record.

14 (Off the record at 12:03 p.m.)

15 **CROSS-EXAMINATION**

16 Q BY MS. CHEREM: Good morning, or I guess just barely, good
17 afternoon. My name is Rachel. I am counsel for the General
18 Counsel in this matter. I'm just going to be asking you a few
19 follow-up questions.

20 A Okay.

21 Q The first one --

22 MS. CHEREM: Maybe I could get Ross's help on the map that
23 was up earlier when she was using the yardstick? So for the
24 record, we have Respondent's Exhibit 3 up on the projector.

25 Q BY MS. CHEREM: You mentioned that those trucks waiting --

1 there were truck were trucks waiting to lo -- there were
2 trucks along the Duwamish?

3 A Yes, ma'am.

4 Q And that's -- you said that you saw -- testified that You
5 saw them get out -- gather their things and get out of their
6 trucks?

7 A Yes.

8 Q Those trucks were parked in the spot where the trucks wait
9 to load, correct?

10 A Yes.

11 Q And you said you didn't see drivers take trucks out back,
12 but there could have been some that you didn't see, right?

13 A I did not see any, ma'am.

14 Q Right. It's possible that there were some that went and
15 you just didn't see them?

16 A That would be something Dave Siemering could answer for
17 you. I did not see any, but --

18 Q Right.

19 A -- anything's possible --

20 Q Okay.

21 A -- but I cannot answer that.

22 JUDGE WEDEKIND: Well, in just -- well, when you say, "out
23 back," can you see out back from your window?

24 THE WITNESS: No. You can see as the trucks come in the
25 back gate here --

1 JUDGE WEDEKIND: No -- by -- by outbound -- no, inbound,
2 which?

3 THE WITNESS: Inbound here.

4 JUDGE WEDEKIND: Is the back gate?

5 THE WITNESS: In the back gate, yeah.

6 JUDGE WEDEKIND: Okay. All right.

7 THE WITNESS: And so they would come in that back gate and
8 go around and they'd turn in front of the dispatch office and
9 go out back. So you can only see so far.

10 JUDGE WEDEKIND: They turn left at the dispatch office?

11 THE WITNESS: Yes, sir.

12 JUDGE WEDEKIND: And go -- okay. That's -- out back is
13 that direction?

14 THE WITNESS: Yes.

15 JUDGE WEDEKIND: That's left?

16 THE WITNESS: Yes.

17 Q BY MS. CHEREM: And you mentioned that the trucks came
18 back over the course of about an hour, right? Approximately?

19 A Approximately.

20 Q Okay. And then, you testified that after the -- that you
21 could also see the cleanup process happening after -- after the
22 strike started, right?

23 A Yes. I could see Dave Siemering out front of the dispatch
24 office directing trucks where to go.

25 Q Right. So about how long after the strike started did you

1 see Dave Siemering out front?

2 A I couldn't give you an exact time.

3 Q Can you estimate about how many trucks were outside by the
4 time you saw Dave Siemering out front?

5 A Well, right away there was roughly, I'd say ten-ish trucks
6 in the yard between the ones that were lined up in front
7 waiting to load, the truck under the plant, and whoever was
8 over at the wash rack. So I'd say it was fairly quickly,
9 within 15 minutes, he was probably out there. But I can't be
10 positive on the time.

11 Q Okay. And could you see any other supervisors or managers
12 besides Dave Siemering out in the yard?

13 A I don't know who exactly was out there. I know there was
14 operators, laborers, and mechanics. I don't know if there was
15 other supervisors out there.

16 Q Okay. You didn't see any --

17 A No.

18 Q -- that you recall?

19 A I was dispatching the Tacoma market too, while this was
20 going on.

21 Q Okay. So your attention was divided a little bit, shall
22 we say?

23 A A little bit, yeah.

24 Q About how many of those other people would you estimate
25 that you saw out in the yard?

1 A Helping Dave?

2 Q Um-hum.

3 A That I saw? I can't see all the way to the back of the --

4 Q Sure are the ones that you saw --

5 A -- whoever was back there. I would say out front here, I

6 saw five-ish other people, but --

7 Q And what class --

8 A -- towards -- towards the back of the yard, I don't know

9 who was back there over by the wash rack. I don't know who was

10 over there.

11 Q Can you see the wash rack from where you sit?

12 A No.

13 Q Okay. So the ones out front that you could see about

14 five?

15 A Yeah, I --

16 Q What classifications of people were those?

17 A Laborers, operators, and mechanics.

18 Q And about how quickly did you see them get out there?

19 A Within 15, 20 minutes or so. That's a guesstimate.

20 Q Then you testified earlier that Dave was directing trucks

21 based on whether they needed retain or rinsed or whatnot. How

22 did you know on what basis Dave was directing the trucks?

23 A Well, if they're stopping here, right around the corner,

24 there's eco-blocks there. So if anyone stopped there, they'd

25 be dumping concrete into eco-blocks. If they go out back,

1 they're either going to dump out the retain or the full loads
2 they had on or getting a rinse. So I don't know exactly where
3 he was directing them to go. I saw them pull up, he'd point to
4 them, and then they would go whichever --

5 Q Okay --

6 A -- way he would want --

7 Q -- so your assessment is that based on whatever direction
8 Dave told them to go, you're using your educated guess on what
9 the status of their truck was?

10 A Yes. He's the superintendent, so he's the one that put
11 together the cleanup.

12 Q Okay. You mentioned Renton Recyclers and Ultrablock a
13 fair amount and that you used to send trucks there.

14 A Yup.

15 Q Can you just remind me what time frame you were -- that
16 was part of your job?

17 A That I -- like, how long I worked Seattle Dispatch?

18 Q Yeah.

19 A 2009 to about 2016.

20 Q Okay. And those two options were available that whole
21 time?

22 A For just about the whole time. I don't have an --

23 Q Okay.

24 A -- exact date for Renton Recyclers.

25 Q Sure. Okay.

1 MS. CHEREM: I have no further questions at this time.

2 JUDGE WEDEKIND: Cross from Union?

3 MR. BERGER: Yes, Your Honor.

4 **CROSS-EXAMINATION**

5 Q BY MR. BERGER: Good afternoon, Ms. Barkie, I'm Ben
6 Berger. I'm the attorney for Charging Party, Teamsters Local
7 174.

8 A Okay.

9 Q Does the dispatch office maintain call logs to record
10 calls received from drivers?

11 A They -- like this, we have recordings of all the calls.
12 Those are available. And then, through the radio and any calls
13 that come in on the phone lines.

14 Q Okay. So besides what comes in on the radio, there's also
15 a phone line.

16 A Yeah.

17 Q And then --

18 A All those are recorded.

19 Q Were you aware of any rumors that a strike by the
20 Teamsters Local 174 drivers might occur around July or August
21 2017?

22 A The only thing I knew about it was that they voted to
23 strike, but I didn't know when the strike was going to happen
24 or if there would be an agreement before that happened.

25 Q How did you learn that drivers had voted to authorize a



1 strike?

2 A The drivers talk a lot.

3 Q So --

4 A I -- a -- a driver told me.

5 Q Do you remember who?

6 A No. They -- they come in through the office regularly.

7 Q Did you attend any meetings among dispatchers or managers
8 about preparing for a potential strike?

9 A No.

10 Q I want to ask you about the -- the throat slashing
11 gesture --

12 A Yeah.

13 Q -- that you testified to. Do you know which Union officer
14 made that gesture?

15 A Mike Walker.

16 Q Do you know if he said anything when he made that gesture?

17 A I was inside. So if he said something, I wouldn't have
18 heard it.

19 Q How far away were you from Mr. Walker?

20 A Well, I was up in the building and he was across the yard
21 in front of the driver shack. I don't know how far away that
22 is. I could -- I mean, I --

23 Q If you could estimate?

24 A I don't know. A thousand feet, maybe. I mean, I could
25 see what he was doing but I couldn't hear him.

1 Q Okay. And you don't know which employees, if any, that
2 observed him visually when he made that gesture, right?

3 A The ones on the front line did. Those were the ones that
4 saw him. But anyone else that was in the yard would not have
5 been able to see him from where they were.

6 Q Well, they may have been able to see him, how do you know
7 that they actually observed him?

8 A Well, I'm going to assume they did, since they all shut
9 off their trucks and got out of them right afterwards and
10 grabbed all their stuff and walked over to him.

11 Q Okay. Do you know -- but you don't know if drivers were
12 responding to that or to something that was put out over the
13 radio, right?

14 MR. PAYNE: Objection. Calls for speculation, Your Honor.
15 There's no foundation beyond that, what she's testified to.

16 JUDGE WEDEKIND: Well, the question was, "You don't know?"
17 That's not speculation. You can answer the question.

18 A There had not been a call over the radio just yet that
19 they were on strike. So I don't -- it was not coming from the
20 radio. Maybe their personal phones but then, they all got the
21 call at once.

22 Q BY MR. BERGER: Okay. And --

23 A So I don't have an answer to that.

24 Q And you're not personally aware if -- if drivers received
25 any text messages from Union officers; you're not personally

1 aware of that?

2 A No. No.

3 Q Okay. And how many drivers were those who you're saying
4 were in the visual field of view of Mr. Walker?

5 A Right there? I'm guesstimating, seven to nine trucks were
6 there. But that's a guesstimate.

7 Q You mentioned that some of the trucks were shut off by
8 drivers as they were departing. Do you have personal knowledge
9 of whether those trucks had concrete in them at the time they
10 were shut off?

11 A No.

12 Q Did you personally respond to any drivers who inquired
13 about what to do with their trucks when they were returning?

14 A No. I was dispatching a different market.

15 Q So there was some discussion about -- and it was in -- in
16 the transcript we looked at in Exhibits 25 and 26, and Mr.
17 Doyle mentioned an obligation -- that the driver had an
18 obligation to finish any -- well, we can look at the exact --

19 A To finish the jobs they had started.

20 Q And so -- you don't have to look at it if you recall
21 basically what he said. My question is, do you have an
22 understanding of what, ob -- what the basis for the obligation
23 is that Mr. Doyle was referring to?

24 A No.

25 MR. PAYNE: Objection, Your Honor. Calls for speculation.

1 MR. BERGER: I was asking if she had a basis for --

2 MR. PAYNE: There's no evidence that she made the
3 statement. No evidence that she conferred with Doyle before he
4 made the statements, so. You're asking her to guess.

5 MR. BERGER: I'm asking if she had a basis -- sorry.

6 JUDGE WEDEKIND: He just asked if she had any knowledge
7 and she said, no.

8 Q BY MR. BERGER: Beyond listening to the recordings of the
9 trucks, do you have any personal knowledge of whether drivers
10 spoke personally to Dave Siemering or other managers when they
11 returned to the plant?

12 A No, I don't.

13 Q Are you --

14 JUDGE WEDEKIND: Does -- I'm sorry. Does -- did your
15 window open?

16 THE WITNESS: No, it does not.

17 JUDGE WEDEKIND: It wasn't open, okay.

18 Q BY MR. BERGER: And if anyone was directing drivers, as
19 you referred to it in the back of the yard, you couldn't have
20 seen that, right?

21 A No, sir.

22 Q Are you aware that Glacier disciplined some drivers as a
23 result of the August 11th strike?

24 A No.

25 Q You mentioned the term, "boxable." And if I understood

1 correctly, that was a reference to the ecology blocks; is that
2 right?

3 A Yeah. If the concrete left on board -- so if someone's
4 bringing back retain and they have two yards left on, if it's a
5 material that could be boxed up, then they would put it in the
6 ecology block forms. And if it's not, then they would take it
7 out back and then a laborer would tell them what to do with the
8 load.

9 Q And do you have any personal knowledge of which, if any
10 loads of concrete that were returning that day were boxable?

11 A No. I was inside.

12 Q If I were to give you the name of an individual driver who
13 worked that day, would you be able to identify whether that
14 person consulted their manager about what to do with their
15 truck?

16 A No.

17 Q And would you know whether an individual driver walked out
18 of their truck?

19 A No. I wasn't in the back of the yard.

20 Q Okay. Or if they left their truck running or not?

21 A Well, all the trucks were there, but I don't know who left
22 their trucks running. I could not tell you that at all.

23 MR. BERGER: I have no further questions.

24 JUDGE WEDEKIND: One question.

25 THE WITNESS: Yes.



1 JUDGE WEDEKIND: You did testify that they all shut off
2 their trucks that were lined up there. How do you know they
3 shut off their trucks?

4 THE WITNESS: The ones out front, those ones did. And I
5 only know that because it got really quiet in the yard. So you
6 have a bunch of mixer trucks lined up out front. You can hear
7 them. It might not be loud inside our office, but there's
8 definitely that hum. And when they all shut off, I was like,
9 this is weird. It just that silent in here. So that's the
10 only reason I knew that those guys had shut off their trucks
11 and their drums stopped moving. But it was just the noise
12 level drastically reduced. And then as trucks started coming
13 back and some were left on, some were shut down, then you could
14 hear the noise again.

15 JUDGE WEDEKIND: Why would their barrels be moving if they
16 hadn't gotten loaded yet?

17 THE WITNESS: Their barrels are always moving slowly --

18 JUDGE WEDEKIND: Oh --

19 THE WITNESS: -- yeah.

20 JUDGE WEDEKIND: -- even before they get loaded from the
21 batch plant?

22 THE WITNESS: Yeah. I don't know that I've ever seen one
23 sit still before, unless it was turned off.

24 JUDGE WEDEKIND: Okay. But again, I'm sorry, just make
25 sure --

1 THE WITNESS: Yeah.

2 JUDGE WEDEKIND: -- but as far as you know, the only
3 reason for them to be lined up there that day was to be loaded?

4 THE WITNESS: Yes, they were in line to load.

5 JUDGE WEDEKIND: Okay.

6 THE WITNESS: That's where they line up for that.

7 JUDGE WEDEKIND: All right. Thank you. And redirect?

8 MR. PAYNE: Can I have just a moment, Your Honor.

9 JUDGE WEDEKIND: Sure. Well, one follow-up question,
10 sorry. So what makes the noise, the engine or the barrel
11 turning?

12 THE WITNESS: I would assume the engine because they're --
13 they're diesels.

14 JUDGE WEDEKIND: Okay. Can you -- if you shut off the
15 engine --

16 THE WITNESS: But I couldn't -- sorry.

17 JUDGE WEDEKIND: That's okay.

18 THE WITNESS: I guess I couldn't answer that. If it's the
19 engine making the noise or the barrel.

20 JUDGE WEDEKIND: Okay. But just so -- finish this up. So
21 if you shut off the engine, can the drum still turn? As far as
22 you know.

23 THE WITNESS: I don't know the answer to that.

24 JUDGE WEDEKIND: Okay All right.

25 **REDIRECT EXAMINATION**

1 Q BY MR. PAYNE: You were asked a question on cross-
2 examination about call logs. I think your answer was something
3 about recordings. That's different than a call log --

4 A Yeah. Our phones have recordings on them. A recording
5 system.

6 Q Okay. And you were asked a question about drivers
7 speaking to Dave Siemering. Could you see Dave Siemering from
8 where you were sitting? As drivers came in, could you see him
9 talking to drivers?

10 A He was down there outside. I was not watching him closely
11 because I was on the phone with customers and I was dispatching
12 the Tacoma market. So I was doing other things.

13 Q So you don't know one way or the other?

14 A NO.

15 Q Okay.

16 MR. PAYNE: No further questions.

17 JUDGE WEDEKIND: Okay. Anything else?

18 MS. CHEREM: No, Your Honor.

19 MR. BERGER: Not from the --

20 JUDGE WEDEKIND: All right. Thank you very much. Thanks
21 for your testimony.

22 THE WITNESS: Thank you.

23 JUDGE WEDEKIND: Let's go off the record.

24 (Off the record at 12:22 p.m.)

25 JUDGE WEDEKIND: All right. Respondent, are you ready to



1 call your next witness?

2 MR. LUNDGREN: Respondent call Ted Herb.

3 MS. CHEREM: Your Honor, before we get Mr. Herb on, I do
4 have a quick housekeeping matter to deal with -- we can do it
5 after Ted Herb, though. It's fine.

6 JUDGE WEDEKIND: Okay. Come on up. Welcome. If you
7 would, could you spell your name for us?

8 THE WITNESS: Sure, Ted, T-E-D. Herb, H-E-R-B.

9 JUDGE WEDEKIND: Okay. Thank you very much. Counsel.
10 Whereupon,

11 **TED HERB**

12 having been duly sworn, was called as a witness herein and was
13 examined and testified as follows:

14 **DIRECT EXAMINATION**

15 Q BY MR. LUNDGREN: Thank you. Good afternoon, Mr. Herb.
16 Could you tell us where you are currently employed?

17 A I am currently retired, so I'm retired.

18 Q And the -- the -- I'll tell you the acoustics are a little
19 bit odd in this room. So if you could raise your voice a
20 little bit in talking. It's hard to hear. And I'm trying to
21 do the same, so I promise I'm not yelling at you.

22 A Okay.

23 Q I'm just trying to project my voice.

24 A I retired last September 30th, 2022, so I'm retired.

25 Q Great. And where did you work before you retired?



1 A I worked at GLY Construction.

2 Q For how many years did you work at GLY Construction?

3 A A little over 35 years.

4 Q When did you retire?

5 A When I -- the date I just stated, September 30th, 2022.

6 Q Thank you. What titles did you hold during your
7 employment at GLY Construction?

8 A Starting from the very beginning?

9 Q Sure.

10 A Okay. Project engineer, project manager, senior project
11 manager, chief estimator, vice president of marketing,
12 executive vice president of operations, president, chief
13 executive officer.

14 Q When were you president at GLY?

15 A Became president in 2016.

16 Q When did you cease being president at GLY?

17 A 2022 as a transition year between myself and my successor.
18 So at that point in time, I dropped the president title.

19 Q What were your duties as president at GLY?

20 A General -- general operations associated with creating a
21 business plan and executing a business plan, overseeing the
22 other shareholders and key managers in the company, risk
23 Management.

24 Q And what is the relationship, if any, between GLY
25 Construction and Glacier Northwest d/b/a CalPortland.



1 A Glacier is a vendor that GLY uses for supplying concrete.

2 Q And I missed the last thing you said.

3 A G -- Glacier is a vendor that GLY uses to supply concrete.

4 Q And was that true in 2017?

5 A Yes.

6 Q In the course of your duties at GLY, did you have
7 familiarity with concrete mat pours?

8 A Yes.

9 Q How about unionized labor? What familiarity did you have
10 with unionized labor?

11 A Well, GLY Construction is a union contractor signatory to
12 four unions. So my whole career at that company was connected
13 with the unionized labor workforce. And in the latter years of
14 my career, I was part of the AGC, the group that negotiated
15 with the carp -- local carpenters union. My last two years of
16 employment, I was the cochair, at least in the last part of the
17 cycle.

18 Q And what is AGC?

19 A Associated General Contractors of America. It's a Seattle
20 chapter.

21 Q I'll represent to you there's been testimony about a King
22 County Teamsters strike that ended the morning of Friday,
23 August 18, 2017. Where were you that day?

24 A I was on vacation in Monterey, California.

25 MR. PAYNE: Ross, could you put Mr. Herb's State Court

1 declaration up, please? Blow it up for a better view. I want
2 to be able to see so I can reference it for the record. Okay.

3 Q BY MR. LUNDGREN: I'm showing you what is Joint Exhibit
4 4.1-075. I asked you to review this declaration prior to your
5 testimony today. Did you do that?

6 A Yes.

7 Q And what if -- what inaccuracies, if anything, did you
8 find?

9 MS. CHEREM: Objection, Your Honor. I mean -- relevance
10 of his -- that is his court declaration. They -- they don't --

11 MR. BERGER: And I -- I join the objection. As we stated
12 at the beginning of the hearing, the State Court -- this aspect
13 of the State Court case has been fully and finally litigated.
14 The only evidence that is relevant as to that is retaliatory
15 motive. But unless there's questions about that, relitigating
16 the facts -- that's been already determined by the State Court.

17 MR. LUNDGREN: And Your Honor, know, first of all, counsel
18 for the Union has it backwards. The only issue is whether it's
19 baseless, but it isn't. And we don't get to retaliatory motive
20 without it being baseless for the First Amendment reasons.

21 Second, I believe Bill Johnson says that you may go on --
22 introduce any additional facts you desire about the State Court
23 proceeding -- proceeding.

24 Third, while we're not intending to make this a long
25 process, given that the General Counsel continues to insist on

1 making the baseless litigation argument, which is essentially
2 that it was a sham, it makes sense to us to call the witnesses
3 who submitted the factual information and ask them about it,
4 first of all, to show that it's not a sham. And then to ask
5 them any additional information we wish to ask them about the
6 State Court litigation.

7 MR. BERGER: If I could respond.

8 JUDGE WEDEKIND: Sure.

9 MR. BERGER: I don't understand. How are we supposed to
10 determine baselessness based on evidence outside of the State
11 Court record? Baselessness is determined based on what was
12 presented to the State Court, not what may be supplemented
13 afterwards. I think that -- that's a question of the claims as
14 they were litigated.

15 MS. CHEREM: I agree. I think that Board law makes clear
16 that the Board cannot make credibility determinations or draw
17 inferences from disputed facts so as to usurp the role of the
18 judge or jury. So this has already been litigated.

19 JUDGE WEDEKIND: Any response to that?

20 MR. LUNDGREN: Sure. I agree with the General Counsel
21 that they may not make credibility inquiry into credibility or
22 even the fact that this is an incredibly high standard for the
23 General Counsel to meet. However, that doesn't mean that I
24 cannot put witnesses on to -- to show that I was a sham. I
25 would agree that General Counsel did not put any evidence on in

1 its case to in any way establish a prima facie case that the
2 litigation was a sham, but we're here and the allegation's
3 still pending, so I think I get to call -- in fact, I do get to
4 call witnesses and -- and show affirmatively that it wasn't
5 shown, even though I carry no burden.

6 JUDGE WEDEKIND: Okay. So correct me if I'm wrong, just
7 the mere fact that they lost doesn't mean it was baseless,
8 true?

9 MS. CHEREM: Correct.

10 JUDGE WEDEKIND: Okay. So what else do you have to prove
11 besides -- we have to -- what do you --

12 MS. CHEREM: I mean, I think the mere fact of when -- of
13 losing a lawsuit doesn't in and of itself make it baseless.

14 JUDGE WEDEKIND: Okay.

15 MS. CHEREM: However, I believe that the Board's role is
16 to evaluate the pleadings of an already completed lawsuit and
17 we don't get to be digging around into other stuff when this
18 has already been litigated to completion in the Court. So we
19 have -- our role is to assess the baselessness based off of the
20 documents that have already been put into the record, which are
21 very lengthy as joint exhibits. Whether or not Your Honor
22 agrees is yet to be determined, but the General Counse --
23 Counsel's theory of baselessness is based off of the pleadings.

24 JUDGE WEDEKIND: Uh-huh. And so -- and -- and this raises
25 an issue I've been wondering about since the trial started. So

1 on what -- what was the purpose of putting out all of these
2 State Court exhibits? I mean what --

3 MR. LUNDGREN: To have a complete record of the litigation
4 so that we may respond to whatever baseless allegation the
5 General Counsel finally articulates, which hasn't happened yet
6 about why the litigation's baseless, number 1. Number 2,
7 procedurally it was resolved on CR56, which was the summary
8 judgement. It wasn't litigated to completion. Mr. Herb never
9 testified to a person about the events. Granted there's a
10 summary judgement declaration in the record that was written
11 to -- and provided by Mr. Herb to certain issues the Union had
12 raised in their motion. The Union didn't say in their motion
13 the claim is baseless, they just said we think the reasonable
14 reliance on them is lacking. The Union lost that argument.

15 In replay, the Union said, we think Section 301 preempts
16 it, you're not allowed to raise those arguments in reply, but
17 they did. The Union lost that argument. Then the record goes
18 up to the Washington Court of Appeals. The Washington Court of
19 Appeals sua sponte says, well we think that this statement
20 is -- doesn't meet the element of past statement -- or
21 statement of past fact. They misquote the record. That issue
22 was not even litigated up to superior court because nobody
23 thought of it, including the Union. Then that goes to the
24 Washington Supreme Court. They say, well the Court of Appeals
25 is wrong because grammatically the statement is we have

1 specifically instructed the drivers. And that is a statement
2 of past fact, but in this circumstance we decide that it's
3 really a future promise, which is another way support of a
4 baseless allegation. But that's what we're here.

5 So I mean the General Counsel can stand up and dismiss
6 this and I -- we could get out of here this week easily and I
7 can postpone witnesses. But I don't even know what their
8 allegation is about baselessness and it can't be just oh you
9 lost on the summary judgement because that -- that's irrelevant
10 to baselessness.

11 JUDGE WEDEKIND: Okay. So if they haven't put on anything
12 other than this joint exhibit and you don't think that they've
13 established this baselessness --

14 MR. LUNDGREN: Well, I don't know. They're going to raise
15 it in briefing, I'm smart enough to know that.

16 JUDGE WEDEKIND: Well, you want to tell us now what's the
17 basis for arguing that it's baseless?

18 MS. CHEREM: Can I have a moment, Your Honor?

19 JUDGE WEDEKIND: Sure. Off the record.

20 MS. CHEREM: Oh, after -- go ahead.

21 MR. BERGER: I do on the record want to correct. Your
22 Honor will have the -- the court records in front of you, but a
23 couple things. I believe Mr. Herb was deposed. Not only with
24 their declaration, he was deposed in the State Court
25 litigation. And the basis for the Union prevailing was not

1 only that there was this statement by the future action, which
2 is not litigable, but that the entire premise of what Mr. Herb
3 purported to have had a conversation with the Union president
4 about was not relevant at all. Because what the company should
5 have done is consult the collective bargaining agreement, which
6 it did not do.

7 MR. LUNDGREN: That's not accurate.

8 JUDGE WEDEKIND: Okay. So you know we -- the record will
9 show --

10 MR. LUNDGREN: And Your Honor, too, I didn't depose Mr.
11 Herb in the State Court proceedings. Number 3, my standard in
12 the State Court proceeding wasn't baseless, right. Nobody
13 alleged under state law that it was baseless. That was raised
14 by the General Counsel five and a half, six years later. And
15 we still don't know what they claim about it was baseless. I
16 mean, I can tell you, you can read all the declarations and you
17 can see there's evidence on every single element of every
18 single claim. That -- so --

19 JUDGE WEDEKIND: So let's go back. Technically, legally,
20 whatever this aspect of the State Court lawsuit has been
21 finally determined by the State Courts, right?

22 MR. LUNDGREN: Correct.

23 JUDGE WEDEKIND: Okay. So what -- you know, but know you
24 want to relitigate it.

25 MR. LUNDGREN: I don't want to relitigate it, I want to

1 put on evidence that our State Court lawsuit was not a sham.
2 That claim II -- the General Counsel's already admitted that
3 the Washington Supreme Court unanimously got the claim I wrong,
4 right.

5 JUDGE WEDEKIND: Okay.

6 MR. LUNDGREN: And I'm going to show that claim II wasn't
7 baseless. It doesn't require much testimony, but here's your
8 declaration; is this true, did you sign it, who supplied the
9 information and, you know, let's look at a couple key facts, I
10 want to ask you some questions about it.

11 JUDGE WEDEKIND: Okay. Stop right there. So as it stands
12 now, without this testimony, I would not be able to take this
13 as true? It's -- it's in the record as a joint one.

14 MR. LUNDGREN: You absolutely would. You would be able to
15 take it as true as of -- as of the date that it's signed.

16 JUDGE WEDEKIND: Okay. So why do we need him to testify
17 about it then? Do you agree with that, that I -- I just take
18 it maybe not as true, but I take it as a fact.

19 MR. BERGER: I think because the -- these claims in State
20 Court were resolved at the summary judgment stage -- we're not
21 disputing that at the summary judgement stage you -- I don't
22 know if you take it as true, but you certainly construe
23 disputed material facts in favor of the nonmoving party.

24 JUDGE WEDEKIND: Right.

25 MR. BERGER: The Union prevailed despite those inferences

1 being in Glacier's favor. So in -- what I wanted to return to
2 is, I think there's a fundamental disagreement here about what
3 baselessness means. It is a legal inquiry for Your Honor and
4 Your Honor can assess, the same way you would assess what a
5 frivolity is just based on the disposition of the case and
6 whether it was legal -- legally colorable at the time it was
7 made, based on the same presumptions that would apply in State
8 Court.

9 JUDGE WEDEKIND: And so your position is that they should
10 not -- the Company should not be able to put into evidence any
11 more facts related to this issue.

12 MR. BERGER: The only area I think additional facts are
13 relevant for and that the Union did provide evidence for, is
14 the retaliatory element.

15 JUDGE WEDEKIND: Uh-huh.

16 MR. BERGER: So baseless and retaliatory. Of course, the
17 job of the State Court was not to assess what the Company's
18 motives for bringing its lawsuit was. That is part of the
19 inquiry in this proceeding.

20 JUDGE WEDEKIND: Okay. So I want to go back to it -- as a
21 practical matter, you say you only have a few questions?

22 MR. LUNDGREN: I do, Your Honor. If the General Counsel
23 is stipulating that there -- whatever they're baseless argument
24 is, is purely a legal argument and is not a factual argument --
25 they're not claiming it was factually baseless, right? They're

1 claiming it was legally baseless --

2 JUDGE WEDEKIND: Based on the facts.

3 MR. LUNDGREN: Right. But it's a mixed question on law
4 and fact that I was in at that stage.

5 JUDGE WEDEKIND: Okay.

6 MR. LUNDGREN: I mean, it's hard to get out of that.

7 JUDGE WEDEKIND: Okay, yeah, yeah. But these facts do not
8 make up a legal case is basically what the Court said, right,
9 on summary judgment?

10 MR. LUNDGREN: They -- under two elements, they said they
11 didn't think it created a genuine issue of material fact at the
12 CR56 stage.

13 JUDGE WEDEKIND: Which means you lost?

14 MR. LUNDGREN: Right. Yeah, but there's no --

15 JUDGE WEDEKIND: Okay.

16 MR. LUNDGREN: -- I mean, I'm not saying we didn't, I'm
17 not saying they're wrong.

18 JUDGE WEDEKIND: Okay.

19 MR. LUNDGREN: I'm not -- I'm not going to, you know --
20 but I do think we get to show absent clarification on the
21 allegation that look, it wasn't factually baseless and it
22 wasn't legally baseless. Granted the legally baseless
23 arguments for briefing, I'm not going to -- I'm not intending
24 to call an attorney and have them explain to me how it wasn't
25 legally baseless, I can do that in a briefing.

1 JUDGE WEDEKIND: So what -- can you address this factual
2 versus legal baselessness?

3 MS. CHEREM: I'm not totally sure that I follow, but what
4 I can say, without needing to get additional clarification from
5 the Region is that, the General Counsel's arguments and
6 position ba -- regarding the baselessness and retaliatory na --
7 baselessness of the lawsuit are found within the pleadings
8 themselves. I am not presenting extraneous evidence beyond the
9 joint exhibit that's already in the record.

10 JUDGE WEDEKIND: How many other witnesses were you going
11 to call to --

12 MR. LUNDGREN: I have --

13 JUDGE WEDEKIND: -- address the factual -- the factual --

14 MR. LUNDGREN: Sure, I have --

15 JUDGE WEDEKIND: --basis for that?

16 MR. LUNDGREN: -- Mr. Herb will speak to it. Ms. O'Regan
17 will speak to it, Paul Cronin from GLY will speak to it, Dave
18 Beakler (phonetic throughout) from GLY, and Rob Johnson from
19 Cadman will speak to it. These are all folks who have put
20 declarations into the record. Adam Doyle may speak to it a
21 little bit. There is some overlap. The issue the Union raised
22 about what labor agreement notice is required to assign start
23 times to drivers is relevant to the warning letter issue as
24 well, because they were issued warning letters for failing to
25 appear at certain times. So that's coming in either way. But

1 that's the witnesses. If you want, we can take a short break.
2 I can talk -- we can talk through for a few minutes. It might
3 save us a lot of time if --

4 JUDGE WEDEKIND: Sounds like it.

5 MR. LUNDGREN: It could. But I -- but I need to think
6 about this. I want to talk to co-counsel and my client about
7 it, Your Honor.

8 JUDGE WEDEKIND: Okay.

9 MR. LUNDGREN: Because what we don't want to do,
10 obviously, is have the federal government say your State Court
11 lawsuit was baseless and then we put on no testimony and they
12 say, see, you know, it was baseless, they didn't even make an
13 argument. They didn't even put a single witness, they didn't
14 even call Ted Herb, the man who heard the fraudulent statement,
15 they didn't even call him.

16 JUDGE WEDEKIND: Uh-huh.

17 MR. LUNDGREN: So I need to think about that because I
18 don't want those kinds of arguments made later in briefing.
19 And to say we're relying on the State Court record for our
20 baseless argument doesn't really help me because it's 4,800
21 pages long. That doesn't, you know, give me the bullseye of
22 what is your theory on baselessness. If they said our theory
23 on baselessness is what the Washington Supreme Court
24 determined, I can -- I could probably work with that. But I
25 don't know what they're claiming was a sham. I mean sham is --

1 sham it like you made it up.

2 JUDGE WEDEKIND: Well, the -- it's whatever the Board says
3 it is, I guess. But -- all right. So I think that's probably
4 a good idea, that maybe you all should talk about this a little
5 bit because it sounds like you've got eight or nine more
6 witnesses you're going to call on this.

7 MR. LUNDGREN: So we're prepared to show that this
8 litigation was not factually baseless.

9 JUDGE WEDEKIND: Okay. But -- okay, fine. And that's on
10 the record. But -- and none of this weaves in with the
11 discipline?

12 MR. LUNDGREN: The only thing that weaves in with the
13 discipline is there will be some testimony -- here I'll just
14 give it to you.

15 JUDGE WEDEKIND: Yeah.

16 MR. LUNDGREN: The Union claims that -- that a 9 a.m.
17 callout recording -- or call-in provision applies to Saturday
18 work and it doesn't. And that's relevant to the warning
19 letters. And the -- the Washington courts got that wrong and
20 we'll be briefing the collateral estoppel issue to you for the
21 discussion.

22 JUDGE WEDEKIND: Okay.

23 MR. LUNDGREN: But we didn't -- and -- and I won't
24 foreshadow the litigation, but we didn't really litigate that
25 issue because we said -- we didn't -- whether the drivers were

1 obligated or not from the State Court law side is not what we
2 were considering. We went because the Union said we'd
3 instructed them to respond to dispatch --

4 JUDGE WEDEKIND: Uh-huh.

5 MR. LUNDGREN: -- and when we gave them the start times
6 like we always do.

7 JUDGE WEDEKIND: Yeah. And the obligated issue only goes
8 to one of the two causes of action. They said the proximate
9 cause for the intentional interference, the alternate costs,
10 that's where that was relevant. It's not really that relevant
11 to the -- I mean it's relevant in the State Court lawsuit, but
12 it's not that relevant because the other causative action, the
13 fraud, was decided not on that basis but on the past statement
14 of fact.

15 JUDGE WEDEKIND: Yeah.

16 MR. LUNDGREN: So not to make it more complicated than it
17 needs to be.

18 JUDGE WEDEKIND: But it does seem to me, just -- it's
19 probably good that we have this discussion, but it does seem to
20 me that if I'm analyzing the baselessness of the lawsuit, it'd
21 all be based on the lawsuit, you know, not on litigating the
22 facts here.

23 MR. LUNDGREN: Okay.

24 JUDGE WEDEKIND: It's different as the discipline, right,
25 that has to be litigated. But as to whether the state lawsuit

1 was unlawful, it ought to be based on the state lawsuit. So I
2 think I'm inclined to go in that direction. On the other hand,
3 I don't want to get a remand and have to come back here to get
4 your facts. So I'd like -- maybe y'all can discuss this.

5 MR. LUNDGREN: Let us talk about it, Your Honor, now that
6 we know how -- how you're thinking about it and let us -- let
7 us talk this through.

8 JUDGE WEDEKIND: Okay.

9 MR. LUNDGREN: And see what we can decide.

10 JUDGE WEDEKIND: Do you want to do it now or --

11 MR. LUNDGREN: I'd like to do it right now --

12 JUDGE WEDEKIND: Okay.

13 MR. LUNDGREN: -- because it's -

14 JUDGE WEDEKIND: All right. Off the record, it's fine.

15 (Off the record at 1:45 p.m.)

16 JUDGE WEDEKIND: All right. So you guys have had some
17 discussion off the record about this. Do you have -- have you
18 reached a stipulation?

19 MR. LUNDGREN: We have, Your Honor. The parties have
20 stipulated that the -- the evidence to support the allegation
21 of baselessness is limited to the evidence admitted in the
22 State Court record in Joint Exhibit 4.

23 JUDGE WEDEKIND: Okay. You all agree to that? Union?

24 MR. BERGER: Yes.

25 JUDGE WEDEKIND: General Counsel?

1 MS. CHEREM: Yes, Your Honor.

2 JUDGE WEDEKIND: Okay. Fine, thank you. Sounds good. So
3 shall we recall the witness or --

4 MR. LUNDGREN: The --

5 JUDGE WEDEKIND: -- do you need any more testimony from
6 that witness?

7 MR. LUNDGREN: We do not need any more testimony from the
8 witness, Your Honor. If we may have a simple ten minutes to
9 regroup and get the next witness?

10 JUDGE WEDEKIND: Of course. Sure. All right. Thank you,
11 Mr. Herb. Thank you for your testimony.

12 Let's go ff the record now.

13 (Off the record at 2:42 p.m.)

14 JUDGE WEDEKIND: All right. Respondent, do you have your
15 next witness?

16 MR. PAYNE: Your Honor, the Employer calls Robert Burens
17 to the stand.

18 JUDGE WEDEKIND: Mr. Burens. Good afternoon. Did I
19 pronounce that right, Burens?

20 MR. BURENS: Burens.

21 JUDGE WEDEKIND: Yeah, thank you. I'm going to ask you if
22 you would to spell all that for us, Robert and your last name.

23 MR. BURENS: R-O-B-E-R-T.

24 JUDGE WEDEKIND: Okay.

25 MR. BURENS: B-U-R-E-N-S.



1 JUDGE WEDEKIND: Great. Thank you. If you would raise
2 your right hand, I'll swear you in.

3 MR. BURENS: Thank you.

4 Whereupon,

5 **ROBERT BURENS**

6 having been duly sworn, was called as a witness herein and was
7 examined and testified as follows:

8 JUDGE WEDEKIND: Okay. Thank you very much. Counsel?

9 **DIRECT EXAMINATION**

10 Q BY MR. PAYNE: Mr. Burens, are you currently employed?

11 A Yes, I am.

12 Q You're going to have to speak pretty loud because it's a
13 big room, okay.

14 A Okay. Yes, I am.

15 Q Okay. Thank you. Where are you currently employed?

16 A Glacier Northwest.

17 Q In what capacity are you currently employed at Glacier
18 Northwest?

19 A Plant manager.

20 Q How long have you been employed at Glacier?

21 A Seven and a half years.

22 Q To whom do you currently report?

23 A Scott Nicholson.

24 Q And what's his title?

25 A He's VP of operations.



1 Q Okay. And who was your supervisor in August of 2017?

2 A That would have been Justin Denison.

3 Q And is Justin still with the company?

4 A He is not.

5 Q Okay. How long have you been employed at Glacier?

6 A Seven and a half years.

7 Q What Glacier facility have you worked at during your seven
8 and a half years?

9 A Kenmore facility.

10 Q Just the Kenmore facility?

11 A I currently work at the Kenmore facility and the
12 Snoqualmie facility.

13 Q Okay. And where were you working in 2017?

14 A Only the Kenmore facility.

15 Q And you were plant manager then?

16 A Yes, I was.

17 Q Where is the Kenmore facility located?

18 A North of Seattle in Kenmore, Washington.

19 Q And can you tell us -- tell us what -- describe that
20 facility for us from then. What was on your site?

21 A We have an office, we have a ready-mix batch plant, we
22 have a barge, a loading facility, we have a conveyor system to
23 load empty the plants, and we have a resell yard for aggregate
24 materials.

25 Q Okay. And how far is that Kenmore facility located from



- 1 Glacier Seattle Duwamish plant?
- 2 A Approximately 15 miles.
- 3 Q What classifications of employees worked at the Kenmore
- 4 plant in August of 2017?
- 5 A Ready-mix drivers and operating engineers.
- 6 Q Were the ready-mix drivers represented by the Union?
- 7 A Yes, they were.
- 8 Q What Union?
- 9 A Teamsters 174.
- 10 Q And were the operating engineers represented by the Union?
- 11 A Yes, they are.
- 12 Q And what Union was that?
- 13 A Operators 302.
- 14 Q And what were their duties, the operating engineers?
- 15 A They off load barges, they batch the ready-mix trucks,
- 16 they build the ready-mix batch plant with materials throughout
- 17 the day. They transfer materials to our aggregate resell yard.
- 18 They clean up any messes in the yard --
- 19 Q I'm sorry I missed the last thing you said?
- 20 A They clean up messes in the yard and operating all the
- 21 heavy equipment.
- 22 Q Okay. And do you have an operating engineer names John
- 23 Downs?
- 24 A Yes, I do.
- 25 Q What's John Downs' job? Or --

1 MR. PAYNE: Strike that.

2 Q BY MR. PAYNE: What was his job in 2017?

3 A He's a plant operating. He -- he was the foreman at that
4 time, batch plant operator.

5 Q Okay. Operating engineer?

6 A Yeah, operating engineer.

7 Q And approximately how many mixer drivers did you have at
8 the Kenmore in August of 2017?

9 A About 15.

10 Q Who did they report to?

11 A Myself.

12 Q Who dispatched the Kenmore mixer drivers in August 2017?

13 A Seattle ready-mix dispatch.

14 Q How many trucks can be loaded at one time at your Kenmore
15 plant in 2017?

16 A One at a time.

17 Q Did you have a wash rack at your Kenmore plant?

18 A Yes, we do.

19 Q How many trucks could go under the wash rack at any one
20 time?

21 A We have one at each wash rack. There's two wash racks.
22 One at a time.

23 Q I'm sorry.

24 A One at a time.

25 Q Okay. Do you recall a strike taking place on August 11th



1 of 2017?

2 A Yes, I do.

3 Q What group of employees went on strike?

4 A The Teamsters 174.

5 Q And how did you first learn about that strike on August
6 11th?

7 A I heard through my batch plant foreman, John Downs, that
8 the drivers were on strike.

9 Q Okay. How did you hear from him? Did he call you up?
10 Did he motion you up?

11 A Yeah. He called me up --

12 Q Pardon me?

13 A He called me up and said the drivers were on strike and
14 they're returning to the yard.

15 Q Where were you at the time?

16 A I was at the office.

17 Q Okay. And which office?

18 A In Kenmore.

19 Q And about what time did you learn that your drivers were
20 on strike that day?

21 A Shortly before 7 a.m.

22 Q What was the status of your mixer trucks and drivers at 7
23 a.m.?

24 A Several were out on delivery. Most of them were coming
25 back to the yard. We had several drivers off work that day

1 because they had been working nights.

2 Q Okay. So you had several in the yard and several out on
3 job sites?

4 A Several of them out on deliveries.

5 Q Okay. Did any of your mixer drivers contact you that
6 morning after the strike began?

7 A No.

8 Q And how many mixer drivers did you have working at 7 a.m.
9 on August 11th?

10 A We had nine drivers working, seven trucks were out on the
11 road. One driver was on light duty and one driver never got
12 loaded.

13 Q Did you observe what your Kenmore trucks and drivers did
14 after 7 a.m.?

15 A Yes, I did.

16 Q What did you see your Kenmore drivers do after 7 a.m.?

17 A They started returning to the yard.

18 Q And approximately what time did you see your mixer trucks
19 and drivers start returning to the yard?

20 A It would be between 7:10 and 7:45.

21 Q Do you have a driver named Corwin Matwichuk?

22 A Yes, I do.

23 Q Did you learn what he did on August 11th, 2017?

24 A Yes, I did.

25 Q What did he do?

1 A He delivered his load to the job to save cold showing.

2 Q I'm sorry, speak up, sir.

3 A He delivered his load to a deck four and by doing that, he
4 saved the deck from having a cold joint in it.

5 Q A cold joint means what?

6 A It would be -- if there's a cold joint in a deck, the deck
7 could have been ruined. So he gave them enough time and enough
8 material to -- to avoid that from happening.

9 Q With the exception of Corwin, how many mixer trucks
10 returned to your facility after 7 a.m.?

11 A It would have been five.

12 Q Did any of those trucks return with full loads on their
13 barrels?

14 A Yes, all five.

15 Q Who were these five drivers?

16 A Jeff Harris, Chris Rus, Damon Sheff, Rick Lavera, and
17 Blaine Elledge.

18 Q And approximately what time did these drivers return to
19 your Kenmore plant?

20 A Between 7:10 and 7:45.

21 Q Were you out in the yard when they came back?

22 A Yes, I was.

23 Q When these trucks came back fully loaded, what options did
24 you have to deal with the concrete that they were bringing
25 back?

- 1 A Only one.
- 2 Q I can't hear you.
- 3 A Only one option.
- 4 Q Which is?
- 5 A Put it on the ground.
- 6 Q Put it on the ground?
- 7 A Yeah, get it out of the trucks and dump it on the ground.
- 8 Q Why was that your only option?
- 9 A If we had left it in the truck, it would have ruined the
- 10 barrels. It would have hardened up and ruined the barrels, so
- 11 that was our main concern to safely and environmentally get it
- 12 out of the truck.
- 13 Q Did all of these trucks and drivers take the same action
- 14 when they returned to your facility?
- 15 A Yes, they did.
- 16 Q What action did you see them take with their trucks and
- 17 loads?
- 18 A Empty their loads, pull out of the yard, park, and leave
- 19 the facility.
- 20 Q Okay. What did you see them do when they came back with
- 21 their loads of concrete?
- 22 A Dump it on the ground.
- 23 Q Okay. Where in your site did they dump it on the ground?
- 24 A The return concrete pile.
- 25 MR. PAYNE: Okay. Can the witness be shown the exhibit

1 which has -- is the photograph of the yard, please?

2 MR. MERRITT: That's Exhibit 7.

3 MS. CHEREM: Is this a new exhibit or something that's
4 already in the record?

5 MR. MERRITT: This one might be new.

6 MS. CHEREM: Thank you.

7 Q BY MR. PAYNE: You recognize this photo I just handed you?

8 A Yes, I do.

9 Q Can you tell us what it is, please?

10 A It's a photo of our Kenmore ready-mix facility.

11 Q And is this what your Kenmore ready-mix facility looked
12 like on August 11th, 2017?

13 A Yes, it is.

14 Q Okay. Let's go through this briefly now. Can you
15 describe these buildings? Let's start with building A in the
16 upper right section of the photo. What is that building?

17 A Those are cement silos for storage.

18 Q Okay. And what is item B?

19 A That's our ready-mix batch plant room.

20 Q Okay. And item C?

21 A Those are our two wash racks.

22 Q All right. And then there's an arrow down at the bottom
23 with a D pointing downward, what is -- what is that?

24 A That's the direction of our office.

25 Q Okay. So your office would be off of the photo here down

1 below it?

2 A Yes, it would be.

3 Q Okay. Now there's a RB right in the middle of this
4 photograph, what is that?

5 A That would have been the area I was standing at the time
6 the trucks came back to the yard between --

7 Q Okay.

8 A -- 7:10 and 7:45.

9 Q And did you see the activity of the trucks when they came
10 back?

11 A Yes, I did.

12 Q Okay. Tell us what the blue arrow represents now when --
13 on this photo?

14 A The blue arrow represents the broken concrete pile.
15 That's the area that the concrete trucks were unloaded?

16 Q Okay. So we have a blue arrow on the right and then we
17 have a blue arrow that makes a left.

18 A Uh-huh.

19 Q Okay. At the end of the blue arrow by C, what is that
20 mark?

21 A That's the broken concrete pile.

22 Q Okay. And when the trucks came back, did you see where
23 they went?

24 A Yes, they went to that pile.

25 Q Okay.

1 A That's the route they took, the blue arrows.

2 Q Okay. And did you see what they did when they got to that
3 pile?

4 A Yes, they unloaded their concrete and dumped it on the
5 ground?

6 Q Okay. More than one truck at a time or did they do it in
7 an orderly manner or how did they do it?

8 A One truck at a time.

9 Q Okay. So -- and about how long does it take for a truck
10 to unload into that pile?

11 A It took them about five to six minutes each truck.

12 Q Okay. And you were standing there to see each truck?

13 A Uh-huh.

14 Q Okay. And then let's look at the red lines. There's a
15 long red line that leads from the pile all the way down past D.
16 Do you know what that red line represents?

17 A That's one of the routes that the -- some of the trucks
18 took back to their designated parking area.

19 Q On that particular day?

20 A Yes.

21 Q Okay. And then there is another, couple of shorter red
22 lines. One of them points right to the RB, that's you, then
23 makes a right, makes another right, and goes straight. Can you
24 explain what those red arrows mean?

25 A That's the second route that the trucks took back to the

1 designated parking area?

2 Q Okay. And where is the designated parking area located?

3 A Behind the offices.

4 Q Pardon me?

5 A South of the office.

6 Q Okay. And is that where the drivers went after they
7 offloaded?

8 A Yes.

9 Q They went to the designated parking area?

10 A Uh-huh.

11 Q And you saw this?

12 A Yes.

13 Q Is this an accurate photo of your Kenmore plant and the
14 routes that were traveled by your drivers on August 11th when
15 they came back in the morning?

16 A Yes, it is.

17 MR. PAYNE: We'll move for the admission of Respondent --

18 MR. MERRITT: 7.

19 MR. PAYNE: -- 7.

20 JUDGE WEDEKIND: Any objection?

21 MS. CHEREM: No, Your Honor.

22 MR. BERGER: Oh, I'm sure your -- I'm sorry.

23 JUDGE WEDEKIND: I thought you were talking about it but
24 apparently not. Any objection to the --

25 MR. BERGER: No objection for --

1 JUDGE WEDEKIND: All right. It's received.

2 **(Respondent Exhibit Number 7 Received into Evidence)**

3 MR. BERGER: -- this exhibit, I apologize.

4 MS. CHEREM: Sorry. We were not talking about it.

5 MR. PAYNE: Excuse me, Your Honor.

6 Q BY MR. PAYNE: Mr. Burens, after that concrete was dumped
7 on the ground, was it reused?

8 A No, it was not.

9 Q Could that concrete realistically have been reused once it
10 had been dumped on the ground?

11 A No, it could not.

12 Q Why not?

13 A There is no use for it at that time. It -- the shelf life
14 had already expired.

15 Q Okay. So and where was this leftover concrete dumped?
16 You have an area there that you call that -- you give it a
17 name?

18 A The leftover pile.

19 Q Okay. And explain why you have an area for leftover
20 concrete.

21 A There -- there's times when contractors overorder and they
22 pay for their loads of concrete and we'll try to pour our
23 broken -- our ecology blocks first. If they're all filled up,
24 it will go to our leftover pile.

25 Q Do you have a reclaimer on that site?



- 1 A No, we do not.
- 2 Q And that morning, did you have any empty ecology blocks
3 that you could have poured?
- 4 A No, they were all full at the time.
- 5 Q Based on your experience in seven and a half years at that
6 Kenmore plant, how long does it take a load of concrete to
7 begin to set up after it's been batched?
- 8 A Between 60 and 90 minutes is the -- the expiration time on
9 the -- for the loads and then it'll start setting up after
10 that.
- 11 Q What did you see your drivers do after they returned to
12 the yard and dumped off their loads?
- 13 A They left the facility.
- 14 Q All right. Parked their trucks and leave?
- 15 A Yep.
- 16 Q Were you able to contain the concrete after it was dumped
17 on the ground by the drivers?
- 18 A Yes, we were?
- 19 Q How were you able to contain it?
- 20 A We had a loader there to push up any concrete --
- 21 Q I can't hear you.
- 22 A We had a operator on a loader that pushed up any concrete.
- 23 Q Okay. So he pushes it after it's been dumped on the
24 ground.
- 25 A To keep it contained.

1 Q And approximately how long did it take the concrete to
2 harden once it was on the ground?

3 A To push it up, about two to three hours -- it was a summer
4 day. I don't know the temperature that day, it was --

5 Q Did you take any steps to dispose of the concrete after it
6 hardened?

7 A Yes, we did. We pushed -- pushed it up into the pile and
8 then we hired an outside trucking company to haul it to a
9 recycle yard.

10 Q Okay. What outside trucking company did you hire?

11 A Sterling Trucking.

12 Q Sterling Trucking?

13 A Uh-huh.

14 Q And do you know where they took that concrete?

15 A Yeah. They took it to AAA Monroe Washington.

16 Q What is AAA Monroe?

17 A It's a recycle yard.

18 Q What do they recycle?

19 A They recycle broken concrete, asphalt, different types of
20 material, building material.

21 Q Do you think your drivers took steps to protect the
22 company's property?

23 A No.

24 MR. BERGER: Objection. Calls for speculation.

25 JUDGE WEDEKIND: So there was an objection. Calls for

1 speculation.

2 MS. CHEREM: Also calls for a legal conclusion.

3 JUDGE WEDEKIND: And a legal conclusion. Okay. And the
4 question was just do you think they took steps --

5 MR. PAYNE: Yeah, to protect the company's property.

6 JUDGE WEDEKIND: -- to protect the property. Overruled.
7 Can you answer the question?

8 THE WITNESS: No, I do not.

9 Q BY MR. PAYNE: Why not?

10 A Because we got five loads of perfectly good concrete on
11 the ground that day.

12 MR. PAYNE: Can we put up GC-22, please?

13 MR. MERRITT: Sure.

14 Q BY MR. PAYNE: Can you see that document on the screen?

15 A Yes, I can.

16 MR. PAYNE: Can we go to the next please?

17 MR. MERRITT: Sure.

18 Q BY MR. PAYNE: Mr. Burens, on the bottom of that page,
19 there's an email that is signed Robert. Do you recognize that
20 document?

21 A Yes. I wrote that document.

22 Q And it was written to all, do you know who you intended to
23 receive it?

24 A Justin Denison and Melanie O'Regan.

25 Q Okay. And what was the purpose of that document? Why'd

1 you write it?

2 A It was in regards to Corwin and the actions he took that
3 day. I didn't feel he deserved to get a letter.

4 Q Okay. And you urged that the letter be withdrawn?

5 A Yes.

6 Q And do you know whether it was withdrawn?

7 A Yes, it was withdrawn.

8 Q Okay. In an earlier transcript, there was a reference to
9 somebody names Zach (phonetic throughout). Do you have a Zach
10 that works for you?

11 A Yes, I do.

12 Q Who's Zach?

13 A Zach Crawford is our loader operator in Kenmore.

14 Q Okay. Is he a 302 person, too?

15 A Yes, he is.

16 JUDGE WEDEKIND: What exhibit was that? The email that
17 you just had up on the screen.

18 MR. PAYNE: Pardon me?

19 JUDGE WEDEKIND: What exhibit was that you just had --

20 MR. PAYNE: It was the transcript of, "Hey, Zach, where do
21 you want me to put this".

22 MS. CHEREM: No. The -- the prior one.

23 JUDGE WEDEKIND: The prior email.

24 MS. CHEREM: The email. It was --

25 MR. PAYNE: Oh, it was General Counsel 22.

1 JUDGE WEDEKIND: 22, thank you.

2 MR. MERRITT: Are you looking for the transcript now,
3 John?

4 MR. PAYNE: Can I have just a moment, Your Honor?

5 JUDGE WEDEKIND: Sure.

6 MS. CHEREM: Does this have a number?

7 MR. MERRITT: Yep.

8 MS. CHEREM: I'm sorry.

9 MR. PAYNE: 29.

10 MR. MERRITT: 29.

11 MS. CHEREM: Okay. R-29?

12 MR. PAYNE: Yes.

13 Q BY MR. PAYNE: Mr. Burens, do you recognize this packet of
14 documents?

15 A Yes, I do.

16 Q First of all, what are they, in general?

17 A This is a list that we keep for our broken concrete
18 tonnage that we haul out each month.

19 Q Okay. And is there also an invoice for the hauling cost
20 in there?

21 A Yeah, there's a -- on page 1 of 13, you can see on 8/23
22 and 8/31 the combined tonnage of 14,356 that we hauled out.

23 Q And that's found on the lower left-hand side of this
24 exhibit?

25 A Yes.

1 Q Okay. Take us through page 2 of this ongoing through
2 2017; is that correct?

3 A Yeah.

4 Q Okay. Was any of that tonnage included among the tonnage
5 from August 11?

6 A It would be hard to say how much tonnage like on the 23rd
7 and the 31st, if that was all in direct from -- from the
8 strike. There -- there could have been some existing tonnage
9 in there. There could have been some tonnage that went out on
10 9/8 that was from the strike. It just depends how much they
11 pushed out then.

12 Q Okay. I'm talking about October, November, December. Any
13 of that tonnage left over from the strike?

14 A No, no.

15 Q Okay. Let's look at page 3 now, 3 of 13. Can you tell us
16 what that document is?

17 A That's the -- the invoice from the trucking company,
18 Sterling, for the two days in August that they hauled.

19 Q What's the total invoice?

20 A 877.50.

21 Q Okay. And can you tell us what page 3 is? Pardon me,
22 page 4?

23 A Page 4 would be just the -- the truck driver's notes for
24 the day. The time he picked up the loads and the time he
25 dumped the loads.

1 Q Does it have the date and the time that he did this work
2 on?

3 A Yes, it does. Page 4 of 13 shows it was Wednesday on
4 8/23/17. He got loaded for the first truck at 8/15. He
5 delivered -- delivered it to Monroe AAA at 9:45 p.m. -- or a.m.

6 Q Are you looking in the upper right-hand corner to
7 determine the --

8 A Yeah, right in the middle up here, yeah.

9 Q Okay.

10 A And then just below that it shows that he returned to the
11 Kenmore yard at 10:30, got loaded again. He dumped his load at
12 11:30 at AAA in Monroe. He hauled two loads that day.

13 Q Okay. Let's look now at page 5. Can you tell us what
14 that document represents?

15 A Yeah. Page 5 represents 8/31 on a Thursday. It shows
16 right here in the middle at 7:15 a.m. we loaded him out, he
17 delivered his load at 8:24 p.m. -- or a.m. to AAA Monroe. He
18 was back to Kenmore at 9:15 a.m., he dumped that load in Monroe
19 at 10:30 a.m.

20 Q And what was the date of that haul?

21 A 8/31.

22 Q Okay. Can you tell us what page 6 represents?

23 A Page 6 are the tare weights that he received for 8/31
24 delivering his loads over the scale at AAA Monroe, the recycle
25 yard.

- 1 Q Where is the tare weight located on this document?
- 2 A It shows his gross weight, his tare weight, the tons he
3 delivered is just below that, 2,984.
- 4 Q You in the upper right-hand corner?
- 5 A Yes.
- 6 Q Okay. And who gets this document from AAA Monroe?
- 7 A The driver does.
- 8 Q Okay. And does it wind up coming back to you?
- 9 A Yes.
- 10 Q Page 4.
- 11 A Yes. We do -- we get it with the billing.
- 12 Q Okay. Page 7 of 13, can you tell us what that page is?
- 13 A Those are more tare weights from -- from the date of 8/31.
- 14 Q From AAA Monroe?
- 15 A Yeah.
- 16 Q Okay. Page 8 of 13, can you tell us what that is?
- 17 A Those are also more weights from 8/31.
- 18 Q Page 9 of 13, can you tell us what that is?
- 19 A This would be a summary that we keep record of for -- for
20 the loads that we haul out.
- 21 Q For the what, I'm sorry?
- 22 A For the loads we haul out of broken concrete. It's a file
23 we keep.
- 24 Q Okay. And page 10 of 13 please? Pretty -- very difficult
25 to read.

1 A It's harder to read, it -- it's for Sterling Trucking,
2 it's just his logs for the delivery of 8/23 on Wednesday.

3 MS. CHEREM: John, do you have a clearer copy of this --
4 I -- I just -- I'm unable to see mine at all.

5 MR. PAYNE: This is the best we have.

6 MS. CHEREM: Right, I get that. But if we have any more
7 data, I just can't read it at all.

8 Q BY MR. PAYNE: Page 11, can you tell us what that document
9 is please?

10 A That's a document from AAA Monroe given to the driver, it
11 shows the tonnage that he delivered on 8/23.

12 Q She comes in, he weighs in and he's given a --

13 A Yeah.

14 Q -- document that shows his weight?

15 A Uh-huh.

16 Q Page 12, can you tell us what that document is?

17 A That would be the same -- same type of document for 8/23,
18 it was at 11:09 a.m. It shows the tons that he crossed the
19 scale with.

20 Q Okay. And finally, page 13 of 13, can you tell us what
21 that document is please?

22 A This is that bill retrieve from AAA Monroe Rock for the
23 deliveries of broken concrete from 8/23 to 8/31.

24 Q Okay. So this is the dump site?

25 A Uh-huh.

1 Q And they charge you to take in their concrete?

2 A Yeah. You have quantity, that would be the tons that were
3 delivered, unit cost is what AAA Monroe charges Glacier
4 Northwest.

5 Q And the amount is what? The last column on the right.

6 A That's the amount -- that's -- that's the total time ton
7 cost.

8 Q Okay. In the bottom right-hand corner, please pay this
9 amount, 1,076.72. Do you know if that got paid by you guys?

10 A Yes, it did.

11 MR. PAYNE: Okay. We'll move for the admission of R-29.

12 JUDGE WEDEKIND: Any objection?

13 MS. CHEREM: I just have a little bit of voir dire about
14 the cover spreadsheet.

15 JUDGE WEDEKIND: Sure.

16 **VOIR DIRE EXAMINATION**

17 Q BY MS. CHEREM: Looking at the first two pages of
18 Respondent's 29, so broken concrete 2017 is the title. Where
19 is this document maintained and who -- I'm sorry. Do you know
20 who created this document?

21 A This document here?

22 Q Yes.

23 A It's created by our bookkeeper in Kenmore.

24 Q Okay. And how do you usually see it or how do you usually
25 come across it?



1 A What?

2 Q How do you usually see it, ho -- how do you see this
3 document?

4 A How do I see it?

5 Q Yeah, under what circumstances? Yeah.

6 A It's an Excel spreadsheet. We have to track it and turn
7 it in to our environmental department at the end of the year,
8 the amount of broken concrete that we haul out.

9 Q Okay. So --

10 A We have to keep records of the tonnage.

11 Q Did you see this Excel spreadsheet in or around 2017 or
12 2018 after it was finished?

13 A Yeah. Uh-huh.

14 MS. CHEREM: Okay. I have no objection.

15 JUDGE WEDEKIND: Any questions from the Union?

16 MR. BERGER: Not at this time, no.

17 JUDGE WEDEKIND: All right. Any objections?

18 MR. BERGER: No, Your Honor.

19 JUDGE WEDEKIND: Okay. It's received.

20 **(Respondent Exhibit Number 29 Received into Evidence)**

21 MR. PAYNE: We have no further questions, Your Honor.

22 JUDGE WEDEKIND: Any cross?

23 MS. CHEREM: Yes. Mind if I shut off the fan or
24 something? It's actually -- I don't know if it's gotten louder
25 or I'm just like getting more sensitive to it.

1 JUDGE WEDEKIND: It would turn off the whole projector.

2 MS. CHEREM: Can we just like -- can we turn it back on
3 when we need it?

4 MR. MERRITT: It takes it a minute to warm up, but it's --

5 MS. CHEREM: Do you mind?

6 MR. MERRITT: No.

7 MS. CHEREM: Okay. Sorry. Off the record, please.

8 JUDGE WEDEKIND: Sure.

9 (Off the record at 3:22 p.m.)

10 **CROSS-EXAMINATION**

11 Q BY MS. CHEREM: Good afternoon, Robert. My name is
12 Rachel, I'm the counsel for the General Counsel in this matter
13 and I'm going to ask you a few follow up questions today. You
14 testified that five drivers returned to the Kenmore facility
15 fully loaded on August 7th, 2017, correct?

16 A Correct.

17 Q And that was Jeff Harris, right?

18 A Uh-huh.

19 Q Chris Rus, yes?

20 A Uh-huh.

21 Q Damon Sheff, right?

22 A Yep.

23 Q Rick Lavera, yes?

24 A Correct.

25 Q And Blaine Elledge?



1 A Correct.

2 Q Okay. And all five of those dumped their loads in the
3 designated spot at Kenmore, correct?

4 A Correct.

5 Q And to your knowledge, there was no damage to the trucks
6 that morning?

7 A No, there was not.

8 Q You mentioned ecology blocks. Can you just explain to me
9 how those work at Kenmore?

10 A So at Kenmore, we do -- we do not have a reclaimer on
11 site, so we reclaim our leftover concrete in ecology blocks.
12 And one ecology block holds roughly one yard of concrete.

13 Q Who sets those up? How does it work?

14 A The operating engineer sets those up.

15 Q And what do they do to set it up, if you know?

16 Q They -- in the morning, they'll break them down from the
17 previous night, they'll take a sledge hammer, knock out the
18 pins. They'll take a front-end loader with a chain and pull
19 the blocks out. They'll set the pins back in them, pour form
20 oil into them and set them up for later that day when trucks do
21 return.

22 Q And when you says pins, what are you talking about? As in
23 like you're explaining it to a friend or something.

24 A So an ecology block is square. A form would be in two
25 sections, they would basically be two Ls --

1 Q Uh-huh.

2 A -- six feet along, two feet over and you pin them
3 together -- you can. There's a pin that holds those together.

4 Q Okay.

5 A So when I say pin, they use a sledgehammer to knock the
6 pins out.

7 Q How long does that process usually take?

8 A Usually takes between 45 minutes to an hour.

9 Q Per block?

10 A To set up the blocks for the morning.

11 Q To set up the -- to set up all the blocks for the morning?

12 A Uh-huh.

13 Q And about how many blocks do you generally have on site?

14 A About 20.

15 Q Okay. And when we say blocks, we're referring to the
16 empty block forms, right?

17 A Yes.

18 Q Okay. And how long does it take -- how many people does
19 it take 45 minutes to an hour to set up all the 20 blocks? Is
20 that one person doing that work, is it five people doing the
21 work?

22 A Usually one to two people. If we have a spare person,
23 we'll have somebody help him.

24 Q Okay. One to two people, it'll take that -- that crew 45
25 minutes to an hour to set up all 20 blocks for the day?

1 A Yeah. 45 minutes to an hour and a half --

2 Q Okay.

3 A -- depending on how much help they have --

4 Q Sure.

5 A -- that day.

6 Q Okay. And just to be clear because I don't work in a
7 concrete yard, so that's -- they -- and then -- so they take
8 out the blocks from the prior day, get it set up and ready to
9 go and then they don't do anything with that until like the
10 next morning after it's been filled up with new concrete. Am I
11 understanding that correctly?

12 A Yeah. We do -- we do not fill the blocks in until that
13 next day.

14 Q Okay. So a truck will come back, dump its concrete --

15 A Uh-huh.

16 Q -- they'll wait for it to harden.

17 A Uh-huh.

18 Q And then the next morning, they take about 45 minutes to
19 an hour --

20 A And if a truck comes --

21 MR. PAYNE: Compound question, Your Honor, I'm going to
22 object to that.

23 MS. CHEREM: Sorry, sorry.

24 MR. PAYNE: I think she asked three or four questions all
25 in one.

1 MS. CHEREM: Yep, I did. I'll break it down. Sorry.

2 Q BY MS. CHEREM: Okay. So they -- the drivers put in the
3 wet cement, right, to the empty form?

4 A It's concrete.

5 Q Oh, excuse me. I can't believe I made that -- that
6 mistake. And then it's left to dry?

7 A Uh-huh.

8 Q And then the next morning, they go through the -- the
9 process that you just explained?

10 A Yes.

11 MR. PAYNE: Objection. Vague. Process you just
12 explained.

13 MS. CHEREM: Of taking apart the -- resetting the blocks.

14 JUDGE WEDEKIND: It's the same. Is that correct?

15 THE WITNESS: It's correct.

16 JUDGE WEDEKIND: Okay.

17 Q BY MS. CHEREM: Before -- before the discipline issued for
18 Corwin originally, that was discussed in that -- that email you
19 were shown in GC-22, were you involved at all in the decision
20 to issue discipline?

21 A No, I was not.

22 Q Did anyone ask you what had happened that day before the
23 discipline was issued?

24 A I had a conversation about the summary of events that took
25 place in Kenmore with Brent Nordyke.

1 Q With Brent Nordyke? And about when did that happen in
2 relation to the strike?

3 A It would have been shortly after -- probably the next
4 couple days of -- of the day of the 11th when it happened.

5 Q Okay. And did you -- you told Brent what happened that
6 day, right?

7 MR. PAYNE: Objection. Vague. He just testified to that.

8 JUDGE WEDEKIND: That day.

9 MS. CHEREM: Sorry.

10 Q BY MS. CHEREM: You told Brent that -- you told Brent that
11 some drivers returned with full loads, right?

12 A I would have told him five -- five loads were wasted on
13 the ground that day.

14 Q And did you tell him who brought the loads back?

15 A Yes.

16 Q And you told him that they dumped the loads on the ground,
17 right?

18 A Yes.

19 Q Okay. Turning to Respondent's 29, looking at 8/23/2017,
20 the 54 tons -- 54.1 tons.

21 A What page are you looking at?

22 Q The very first page. If you look at the line that says
23 8/23/2017 towards the bottom --

24 A Okay.

25 Q -- it's like five lines up.

1 A Uh-huh.

2 Q Those 54.1 tons, some of that could include concrete that
3 was already on the ground before the strike, right?

4 A It could have.

5 Q But you don't know how much, do you?

6 A We don't, no.

7 Q This spreadsheet, the first two pages of R-29, accurately
8 reflects the amount of tons of concrete that had to be removed
9 from the Kenmore facility, correct? In 2017.

10 A The total -- what are you -- what's the question.

11 Q Is it an accurate reflection of the amount of broken
12 concrete removed from the Kenmore facility in 2017, correct?

13 A Yes, it is.

14 Q And it's an accurate breakdown by months?

15 A What's that question?

16 Q It's an accurate breakdown? There's no reason to doubt
17 any of the information on here?

18 A No.

19 MS. CHEREM: I have nothing further, Your Honor.

20 JUDGE WEDEKIND: How about from the Union?

21 MR. BERGER: I have a few questions.

22 JUDGE WEDEKIND: Okay.

23 **CROSS-EXAMINATION**

24 Q BY MR. BERGER: Good afternoon, Mr. Burens. I'm Ben
25 Berger, I'm the attorney for Teamsters Local 174, the Charging

1 Party. Did you have any knowledge of rumors about the
2 possibility of a strike in July or August of 2017?

3 A No.

4 Q Did you participate in any meetings about what to do in
5 the event of a strike?

6 A There was fencing purchased and delivered to the facility.

7 Q Were you personally involved in the --

8 A No, it was delivered.

9 Q What was purchased?

10 A Fencing.

11 Q Do you know who was responsible for the purchase?

12 A I would think Justin Denison.

13 Q And did Mr. Denison give you any instructions about what
14 to do with the fencing?

15 A For me to put it up.

16 Q Did he -- did you put it up when it was received?

17 A No. It was there until after the strike happened.?

18 Q Okay. And when in relation to the strike did you receive
19 the fencing?

20 A I don't recall.

21 Q Could you say if it was a week or more before the strike?

22 A Yeah, it was within that time frame, I guess, I don't --

23 Q I think you testified that you learned about the strike
24 from an individual named John Downs; is that right?

25 A Yeah.

1 Q Okay. And what is John's role again?

2 A He is our plant foreman. That day, he was batching ready-
3 mix concrete up in the batch plant.

4 MR. BERGER: I'm wondering if we can take a look at
5 Respondent's Exhibit 25. If we're able to put it up on the
6 screen or else if there's a copy --

7 MS. CHEREM: Oh, you'll have to turn it back --

8 MR. BERGER: -- physical copy, we can do it that way.

9 MS. CHEREM: I think I gave you mine.

10 (Counsel confer)

11 MS. CHEREM: No, that's 24. Oh, here, I have an extra
12 copy of 25.

13 JUDGE WEDEKIND: 25. I think you have it in front of you.

14 MR. MERRITT: Would you like it back on?

15 MS. CHEREM: John, I have an extra, you can use my copy
16 if --

17 JUDGE WEDEKIND: No, you have --

18 THE WITNESS: Right here?

19 JUDGE WEDEKIND: Yeah. That's fine. What does that say?
20 That's it right there. 25 at the very bottom right.

21 THE WITNESS: 21 of 26.

22 JUDGE WEDEKIND: Oh, that's 24.

23 THE WITNESS: Yeah. Respondent 25?

24 MR. BERGER: That's 24.

25 MS. CHEREM: Oh. Never mind. He's got it.

1 JUDGE WEDEKIND: 25 is the other one. That's it.

2 THE WITNESS: This one?

3 JUDGE WEDEKIND: Yeah.

4 MS. CHEREM: Sorry about that.

5 MR. PAYNE: Okay. Hold on. I've got to get mine now.

6 MS. CHEREM: Oh, okay. We're trying to make it easier for
7 the witness. But he's got one. You can borrow mine again, if
8 you need it. Yep, just give it back.

9 MR. MERRITT: It's turning on. It just takes a minute to
10 warm up.

11 JUDGE WEDEKIND: Well, we all have a copy.

12 Q BY MR. BERGER: And Mr. Burens, could you turn to what's
13 marked at the bottom, page 14? I'll ask you to read from line
14 3 of page 14 until the following page, line 2. Let me know
15 when -- when you're done.

16 JUDGE WEDEKIND: Just read it to yourself.

17 THE WITNESS: Are we on page 2 --

18 JUDGE WEDEKIND: Oh, it's --

19 THE WITNESS: 14.

20 JUDGE WEDEKIND: -- page 14 at the bottom, line 3. Just
21 start reading to yourself all the way to line 2, let me know
22 when you're finished.

23 MR. MERRITT: What page was that?

24 JUDGE WEDEKIND: 14.

25 THE WITNESS: Okay.

1 JUDGE WEDEKIND: Did you go to the next page? Just to
2 line 2.

3 THE WITNESS: Correct.

4 Q BY MR. BERGER: Okay. Now, Mr. Burens, I would represent
5 to you that this is an exhibit submitted by Respondent,
6 Glacier, and the names in blue identified here were
7 identifications made by Glacier dispatcher. Were you
8 familiar -- were you aware that Mr. Downs had these
9 conversations with the drivers indicated there?

10 A No, I wouldn't have been aware at that time. I mean, he's
11 up -- he's in the batch plant, so he does have radio
12 communication. He can hear chatter on the radio, so to speak.

13 Q When you say you weren't aware then, did you become aware
14 at a subsequent point before today about this conversation
15 that's reported?

16 A This conversation?

17 Q Correct.

18 A Yes.

19 Q When did you become aware?

20 A Probably in the last week or so.

21 Q Okay. And how did you become aware?

22 MR. PAYNE: I'm going to object, Your Honor. This is
23 going to get into privileged communications, that's where it
24 sounds like it might be going?

25 Q BY MR. BERGER: Okay. Yeah, I don't want to -- if you had

1 attorney client privilege communications, I don't want to know
2 about that. You can just tell me if it was through an attorney
3 or not.

4 MR. PAYNE: No.

5 JUDGE WEDEKIND: What are you asking him?

6 MR. BERGER: I'm just asking if it was through attorney
7 client communications or if it was with a non-attorney that he
8 learned this information.

9 MR. LUNDGREN: It'd still be party to --

10 MR. PAYNE: Yeah. It's going the same direction, Your
11 Honor. He's asking whether he had a conversation with me,
12 that --

13 MR. LUNDGREN: I don't think it's his intent, but the
14 question actually probes attorney client privilege.

15 JUDGE WEDEKIND: Well, it's on the fringes, but -- did
16 you -- did you. Sir, I mean I've had this before -- I mean,
17 just -- can you just ask if he heard it from another manager?

18 MR. BERGER: I can reframe --

19 JUDGE WEDEKIND: Not -- well, go ahead.

20 Q BY MR. BERGER: Did you learn of this information -- do
21 you have any conversations with non-attorneys regarding the
22 contents of this conversation prior to today?

23 A No, I did not.

24 Q Okay. Mr. Downs had the ability to contact you on August
25 11th, correct? For guidance.

1 A Yes, he did.

2 Q Did he contact you about what returning drivers should do?

3 A Yes, he did.

4 Q And what did you tell him?

5 A I said our only option was to put it on the ground.

6 Q So you directed him to provide the guidance that's
7 indicated here on page 14 to 15?

8 A Yes, I did.

9 Q And you agree that the drivers followed those
10 instructions?

11 A They dumped it on the ground.

12 Q It's a yes or no question, did they follow the
13 instructions that Mr. Downs provided?

14 A Yes, they did.

15 Q When you described the summary of events to Mr. Nordyke,
16 did you explain that you had directed Mr. Downs to instruct
17 drivers to dump the concrete on the return pile?

18 A Yes, I would have explained that.

19 Q You agree putting the concrete on the return pile didn't
20 cause any damage to the Kenmore plant, correct?

21 A Well, it's not absolutely correct because once the
22 concrete hardens, the front -- our heavy equipment -- our heavy
23 loader has to push it up and it's always extra wear and tear on
24 the equipment to push up any huge amount of concrete, which 50
25 yards of concrete is a huge amount. So it would have probably

1 done a lot of damage to the loader -- more use than it would
2 normally take, so.

3 Q The front-end loader is constantly pushing concrete on
4 the pile, correct?

5 A Not 50 loads at a time. 50 loads -- 50 yards of concrete
6 is a huge amount once it's hardened for a loader to push up.
7 There would have been probably more wear and tear than a normal
8 day.

9 Q Do you have any direct knowledge about how much wear and
10 tear is suffered on the front-end loader?

11 A No, I do not.

12 Q And -- and you would agree that just for April 14th, 2017,
13 there was a total tonnage of 901 and change that was taken
14 away? Excuse me for the -- for that entire month of April.

15 A What's the date?

16 Q The month of April 2017, if I'm following correctly, the
17 number 901.53 that reflects the amount of total tonnage for
18 that month; is that right?

19 A Yeah, that'd be correct.

20 Q Okay. And that's seven or eight times for the month of
21 August? So about seven or eight times the amount of wear and
22 tear --

23 MR. PAYNE: I'm going to object, Your Honor. A math
24 equation, we can all calculate.

25 JUDGE WEDEKIND: Over -- overruled, it's cross-

1 examination.

2 Q BY MR. BERGER: It was about seven or eight times the
3 amount of wear and tear that would have incurred by the loader
4 compared to August?

5 A So if you look at these dates for there, he hauled 89 tons
6 in one day. 93 tons, those are all broken out in -- in days.

7 Q Okay. So for instance, April 12th, 2017.

8 A Uh-huh.

9 Q You agree there was no strike --

10 A Uh-huh.

11 Q -- going on that day, right? And that was, you know,
12 more -- more tons that day and more wear and tear than would
13 have been incurred on that day than August 31st, correct?

14 A Not necessarily. Different circumstances.

15 Q You just don't know?

16 A If -- if they're coming back with a yard, yard and a half,
17 they can usually win row it and that's pretty easy to break up
18 with a loader throughout the day, you push it up, push it up.
19 When you're dealing with 50 yards of concrete all at once and
20 it sits there and sets up and you have to push it up, you know,
21 after the strike's resumed and guys come back to work, it's
22 wear and tear on the loader.

23 Q Okay. And do you have any specific recollection as we sit
24 here about how concrete was moved on the broken pile for the
25 month of April 2017 for instance?

1 A Yep. It wouldn't be five loads all at once. In one day.

2 Q My question is, do you remember how it was pushed around
3 for those -- the tonnage that's listed here on the chart?

4 A It's usually pushed up by the win row.

5 Q But do you have a specific recollection for those -- for
6 that month April 2017?

7 A No, I do not.

8 MR. BERGER: I have no further questions.

9 JUDGE WEDEKIND: Any redirect?

10 MR. PAYNE: Yes, Your Honor.

11 **REDIRECT EXAMINATION**

12 Q BY MR. PAYNE: In April of 2017, did you ever have five
13 trucks fully loaded at one time and dump on that -- dump on
14 that extra pile? April 2017.

15 A April, no.

16 Q Never?

17 A Never.

18 Q Positive?

19 A Positive.

20 Q How much does a load of concrete weigh?

21 A A full load of concrete?

22 Q Yeah.

23 A About 20 -- 20 something ton.

24 Q 20 tons, 40,000 pounds?

25 A Yeah.



1 Q So five truck loads would have been 200,000 pounds, 100
2 tons worth of concrete dumped that day in Ap -- in August?

3 A I'm not very good at math, but --

4 Q Okay. One truck load is 40,000. You had five of them
5 come back.

6 A 40,000 pounds.

7 Q You had five of them come back. That's 200,000 pounds?

8 A Yeah.

9 Q 100 tons? Yes or no?

10 A Yep.

11 Q Okay. Let's talk about these ecology blocks. On August
12 11th, were there any empty ecology blocks on August 11th when
13 the trucks came back?

14 A No, there were not.

15 Q Okay. And do you know if anyone tried to -- to build
16 ecology blocks that morning -- empty the old ones and build the
17 new ones for your trucks?

18 A No, they did not.

19 Q Do you know why?

20 A They were too busy dealing with the strike and the loads
21 coming back.

22 Q Okay. Not enough time?

23 A Yeah.

24 Q You said you had a conversation with Brent Nordyke that
25 week after the strike started. Tell me what you remember that

1 conversation to be, did Brent call you or did you call him?

2 A It -- I don't recall who called who, but I needed to catch
3 up with him about the summary of events that took place in
4 Kenmore, so he could track what was going on.

5 Q And what did you say?

6 A I let him know what I witnessed that day, which was five
7 loads of concrete being wasted. We had no option other than
8 put it --

9 Q Can't hear you, sir.

10 A We only had one option. It was to put it on the ground.

11 Q Did you tell him about Corwin Match -- Matwichuk at that
12 conversation?

13 A Yeah, I believe I did.

14 Q Okay. You said John Downs is a plant foreman, is that a
15 member of management or is it a member of a union?

16 A No, he's a 302 operator, union.

17 Q So he's a working foreman?

18 A Yes.

19 Q Okay. Going back to now Exhibit R-29, which is these --
20 the documents showing the concrete that was hauled off site and
21 so on. Are you with me?

22 A Uh-huh.

23 Q Page 1. Let's stick with April for a minute because
24 that's where the questions were being asked. Tell me this, did
25 this returned concrete -- was it coming back in full truckloads

1 to your knowledge or was it coming back in retain?

2 A It would have been leftovers. There very well could have
3 been a few rejected loads maybe. That does happen on occasion.

4 Q Would most of it be retain?

5 A Yeah --

6 Q The leftovers?

7 A -- retain meaning leftovers. It's purchased by the
8 customer and that customer's billed for it and we bring it back
9 to our yard.

10 Q Not used?

11 A Right.

12 Q Okay. And you said the customer would have paid for it,
13 even though it came back? Yes or no?

14 A Yes. They paid for it, sometimes they over order.

15 Q When these five loads came back on August 11th, did the
16 customer pay for those, too? Or did you guys have to pay for
17 those?

18 MS. CHEREM: Objection. Foundation.

19 A We were on the hook for that.

20 JUDGE WEDEKIND: Overruled.

21 MR. PAYNE: Pardon me?

22 JUDGE WEDEKIND: Go ahead, say it again.

23 MS. CHEREM: Yeah.

24 THE WITNESS: We paid for it. Glacier Northwest paid for
25 those loads.

1 MR. PAYNE: Okay.

2 (Counsel confer)

3 MR. PAYNE: No further questions, Your Honor.

4 JUDGE WEDEKIND: I just want to follow up with a couple
5 things. You can come back if you want. Just on the -- paying
6 for the rejected loads. Are you saying the customer always
7 pays for rejected loads?

8 THE WITNESS: No, not rejected, left -- any over ordered
9 concrete, which would come back to the yard, we classify that
10 as leftovers.

11 JUDGE WEDEKIND: Okay, but if it's over ordered, they paid
12 for it?

13 THE WITNESS: Yes.

14 JUDGE WEDEKIND: But you said April could have included
15 rejected loads. That means it could have --

16 THE WITNESS: It -- it could have. There's occasionally a
17 rejected load. A rejected load, CalPortland would have paid
18 for.

19 JUDGE WEDEKIND: Right. Okay. And what -- what reasons
20 would a load be rejected? Possible reasons.

21 THE WITNESS: Out of specification. Either over weight on
22 something or it's -- a slump was not within spec. It could be
23 driver error, it could be plant operator error, it could be
24 dispatch error.

25 JUDGE WEDEKIND: Okay. And just a few -- two more --



1 one's minor. Earlier on in your testimony, you said that when
2 the strike started and I think it was just -- you said several
3 drivers were out on delivery. Most were coming back, several
4 were off work because they had been working nights.

5 THE WITNESS: Uh-huh.

6 JUDGE WEDEKIND: But when you said most were coming back,
7 they weren't coming back at the time the strike was called were
8 they?

9 THE WITNESS: They were -- most were coming back from the
10 delivery. They were refusing to --

11 JUDGE WEDEKIND: Okay. So it was after the strike was
12 called.

13 THE WITNESS: Yeah.

14 JUDGE WEDEKIND: Most were coming back.

15 THE WITNESS: Right, right.

16 JUDGE WEDEKIND: The one who didn't was Corwin?

17 THE WITNESS: Yeah. They're out on delivery, but --

18 JUDGE WEDEKIND: Corwin or --

19 THE WITNESS: Yeah, Corwin was the only one that --

20 JUDGE WEDEKIND: Okay. That's what you meant. Okay, so
21 got it. And that was clear pretty much from your subsequent
22 testimony, but I just wanted to make it more clear. Finally,
23 with respect to this -- this Respondent Exhibit 29. One
24 question that -- what determines how often you have the trucks
25 haul the broken concrete away? Like how often each month?

1 Now, I know in August you had a strike right --

2 THE WITNESS: Uh-huh.

3 JUDGE WEDEKIND: -- were you laying any concrete during
4 that strike?

5 THE WITNESS: Well, no we weren't.

6 JUDGE WEDEKIND: Okay.

7 THE WITNESS: So we had less days that month to -- to do
8 the things that we would normally do.

9 JUDGE WEDEKIND: Okay.

10 THE WITNESS: If you can see, we consistently try to haul
11 five to six days a month that we put in our budget to haul out
12 broken concrete.

13 JUDGE WEDEKIND: Okay. So I see that. Does April have a
14 lot more days -- but yeah, I see some are four, some are five.

15 THE WITNESS: Uh-huh.

16 JUDGE WEDEKIND: February's just three. January's just
17 three. But is there anything in particular that determines why
18 it would be less some months than others?

19 THE WITNESS: Sometimes it's just budget wise and how much
20 we -- how many days we want to commit to it. And you know,
21 where we've spent the money and how much is actually in the
22 yard at that time. It just -- it varies, you know.

23 JUDGE WEDEKIND: Okay. I'm just trying to figure out
24 why -- there doesn't seem to be a lot of concrete in August.

25 THE WITNESS: No.

1 JUDGE WEDEKIND: Continue -- let me please finish. So
2 after the strike ended on the 17th, somewhere around there,
3 right?

4 THE WITNESS: Uh-huh.

5 JUDGE WEDEKIND: It was a week-long strike, right?

6 THE WITNESS: Uh-huh.

7 JUDGE WEDEKIND: So you resumed operation, correct? As
8 usual?

9 THE WITNESS: Uh-huh.

10 JUDGE WEDEKIND: Right. And you didn't haul away any
11 concrete until -- the first time was August 23rd.

12 THE WITNESS: Uh-huh.

13 JUDGE WEDEKIND: And then on August 31st.

14 THE WITNESS: Uh-huh.

15 JUDGE WEDEKIND: And this would also include concrete
16 before the strike -- between July 25th and August 11th, right?

17 THE WITNESS: Uh-huh.

18 JUDGE WEDEKIND: Yes or no?

19 THE WITNESS: Right.

20 JUDGE WEDEKIND: Okay. So can you explain -- why don't we
21 see more concrete there? I mean 50 -- 50 tons, right?

22 THE WITNESS: Those are -- that's just a reflection of the
23 two days we were able to -- to get trucking that day.

24 JUDGE WEDEKIND: Okay.

25 THE WITNESS: So the 23rd and 31st, that doesn't mean we

1 got that bunker empty.

2 JUDGE WEDEKIND: So in 2017 --

3 MR. PAYNE: I'm sorry, Your Honor, I couldn't hear. That
4 doesn't mean something.

5 JUDGE WEDEKIND: That doesn't mean they got it empty.

6 MR. PAYNE: Oh.

7 JUDGE WEDEKIND: So that was another question I had, so
8 physically --

9 THE WITNESS: So you can see --

10 JUDGE WEDEKIND: They don't haul the whole thing away
11 sometimes.

12 THE WITNESS: Sometimes we do not. We try to, but you can
13 kind of see August went into September. You know, we -- we
14 only had two days to haul. We had the strike and you know,
15 dealing with that kind of stuff.

16 JUDGE WEDEKIND: So you -- they only took out 54 tons on
17 August 23rd.

18 THE WITNESS: Uh-huh.

19 JUDGE WEDEKIND: That includes the week before the strike,
20 it includes the week after the strike. And you're saying,
21 apparently, from this it must include what they dumped on
22 August 11th because there are no other hauls listed on here,
23 right?

24 THE WITNESS: Correct.

25 JUDGE WEDEKIND: But you're saying maybe they didn't take

1 it all and they took more on August 31st; is that what you're
2 saying? That's why you have documents from both August 23rd
3 and August 31 here, right?

4 THE WITNESS: Uh-huh.

5 JUDGE WEDEKIND: Because you're saying August 31 might
6 have included some of that dumped concrete on August 11th?

7 THE WITNESS: Yes.

8 JUDGE WEDEKIND: Is that what you're saying?

9 THE WITNESS: More than likely. So 8/23 and 8/31. Those
10 are the only two days we were able to haul that month. More
11 than likely there was some of that material, if not --
12 depending how they push it up and they rotate it into the pile
13 and break it up. I can't say for sure every bit of that
14 concrete from that day that was pushed up, got loaded into that
15 truck because once they start pushing it up, there could have
16 been chunks of that concrete further back. Just kind of --
17 they try to rotate the pile to break up the pieces small enough
18 to fit onto the back of the truck, so. You start kind of
19 blending it into the existing pile, if it's there.

20 JUDGE WEDEKIND: I mean sometimes -- you know, I don't
21 want to beat this to death, but I mean sometimes they haul away
22 120 tons on one day, 140 tons, 150 tons in April one day.

23 THE WITNESS: Uh-huh.

24 JUDGE WEDEKIND: A couple days in April, they hauled away
25 in one day over 100 tons each day. So why would you only haul

1 away 54 if there were 100 tons there on August 23rd?

2 THE WITNESS: More than likely just trucking availability.
3 On some of those dates where you say there's 100 tons, there's
4 probably multiple trucks they can give us for those days to
5 haul.

6 JUDGE WEDEKIND: Okay. That's -- you're saying that's the
7 reason -- that's the possible reason?

8 THE WITNESS: Uh-huh.

9 JUDGE WEDEKIND: All right. That's it. That's all I
10 have. Anything else?

11 MS. CHEREM: I just have a few clarifying questions, if
12 that's okay?

13 JUDGE WEDEKIND: Sure.

14 **RECROSS-EXAMINATION**

15 Q BY MS. CHEREM: The conversation with Brent about what had
16 happened on August 11th, how did that occur? Like in person,
17 on the phone, video chat?

18 A I don't recall. We could have talked briefly on the
19 phone. He may have made time to come out to the plant and we
20 may have talked. I don't -- I can't say exactly how it --

21 Q Do you recall how long the conversation lasted?

22 A I do not.

23 MS. CHEREM: I have nothing further.

24 MR. BERGER: I also have one or two clarifying questions.

25 **RECROSS-EXAMINATION**



1 Q BY MR. BERGER: So Mr. Burens, how many drivers were
2 domiciled in Kenmore in 2017; if you recall?

3 A It would be 15.

4 Q Okay. And do you know approximately -- or exactly, how
5 many were working on August 11th, 2017?

6 A So we had nine drivers show up for work. One driver was
7 on light duty that day. So he would not be available to be in
8 a truck. One driver clocked in and didn't deliver a load. So
9 we would have had seven working trucks that day.

10 Q Okay. So the two -- by my count, that leaves two drivers
11 unaccounted for. What happened to their trucks? Do you know
12 where they were when the strike happened?

13 A No. So we had --

14 Q I'm sorry?

15 A We have seven drivers working.

16 Q Right. And five of them, I think you said --

17 A Uh-huh.

18 Q -- returned with full loads of concrete?

19 A Uh-huh.

20 Q That does not include --

21 A One driver -- our senior driver, Tim Morey, he got loaded
22 before the strike ever happened and came back to the yard and
23 took his truck to the shop before the strike ever happened. So
24 that would be the missing truck you're talking about.

25 Q And you're saying he did not have a full load at the time

1 the strike occurred? It was --

2 A He delivered a load before the strike ever -- ever
3 started.

4 Q I see. Okay.

5 JUDGE WEDEKIND: Wasn't there a second driver, too?

6 Q BY MR. BERGER: I think -- the second driver returned
7 without a full load, it's my understanding, is Corwin
8 Matwichuk; is that right?

9 A Yeah the -- yes.

10 Q Okay.

11 A Once the strike started.

12 Q Plus five who returned with full loads, one on light duty,
13 and the rest were not working that day. Okay.

14 JUDGE WEDEKIND: Anything else?

15 MR. BERGER: No.

16 JUDGE WEDEKIND: Redirect?

17 MR. PAYNE: Couple, Your Honor.

18 **FURTHER REDIRECT EXAMINATION**

19 Q BY MR. PAYNE: In August of 2017, I'm looking at R-29, you
20 were shut down for one week because of the strike; is that
21 correct?

22 A Yes.

23 Q Pardon me?

24 A Yes, that's correct.

25 Q And am I also right that the operating engineers left too



1 on the date of the strike, did they not?

2 A They did.

3 Q So there was nobody around to push up the concrete into a
4 pile that week, was there?

5 A No, there was not.

6 Q And on the Friday of the strike, you had -- I believe you
7 testified seven drivers working; is that correct?

8 A Seven drivers, yes.

9 Q Okay. Can you have more than seven drivers working in
10 April of 2017?

11 A Yes, we would have.

12 Q How many?

13 A 15.

14 Q You would have had twice as many drivers working?

15 A Yes.

16 Q In April. Bringing back potential retain, too?

17 A Yes.

18 Q And let's go to the month of July. How many drivers did
19 you have working in the month of July?

20 A It would have been 15.

21 Q Okay. Fair to say more drivers, more retain?

22 A Fair to say.

23 MR. PAYNE: No further questions, Your Honor.

24 JUDGE WEDEKIND: All right. Anything else?

25 MS. CHEREM: I have one question, I believe.

FURTHER RECROSS EXAMINATION

1

2 Q BY MS. CHEREM: About how many drivers were working nights
3 in early August 2017?

4 A Six -- six or seven.

5 Q Six or seven?

6 A Yeah.

7 MS. CHEREM: Nothing further.

8 JUDGE WEDEKIND: I'm not sure what to do with that
9 information. I'm not sure what it means. Are you -- was the
10 question whether there were six or seven more drivers working
11 at night?

12 MS. CHEREM: Well, I believe the testimony was that there
13 were nine total drivers scheduled for that day of the strike on
14 August 11th. Seven on the road, one on light duty, and one who
15 never got loaded. I believe he also testified that the
16 remaining driver -- there were some drivers who were working
17 nights and that's why they weren't working --

18 JUDGE WEDEKIND: Uh-huh.

19 MS. CHEREM: -- the morning of the strike. To the extent
20 that on redirect, counsel for Respondent seems to suggest that
21 there were less drivers working in August as opposed to April
22 and thus that's why there was less tonnage. I don't think that
23 that math adds up.

24 JUDGE WEDEKIND: Okay. So you want to -- any other
25 questions on that topic?

1 MS. CHEREM: No.

2 JUDGE WEDEKIND: Okay. Did you want to --

3 MR. PAYNE: Yes.

4 **FURTHER REDIRECT EXAMINATION**

5 Q BY MR. PAYNE: Where were those seven drivers who were
6 working nights driving out of?

7 A Seattle.

8 Q Okay. They're getting loaded in Seattle?

9 A Getting loaded, that would have been Seattle.

10 Q Where were they coming back to at the end of their shift?

11 A Seattle.

12 Q If they had reclaim, where would they have dumped their
13 reclaim?

14 A Seattle.

15 Q What was going on in Seattle; what job were they pouring?

16 A I think it was the tunnel project.

17 Q And the tunnel was poured at night for what reason?

18 A Because it's easier, traffic wise. I mean --

19 Q Less traffic.

20 A Yeah.

21 MR. PAYNE: No further questions, Your Honor.

22 JUDGE WEDEKIND: Anything else on that?

23 MS. CHEREM: Not from me, Your Honor.

24 JUDGE WEDEKIND: Nothing from you. Okay. All right. And
25 just, in April, they weren't doing that? Is that what you're

1 saying? In April, they were all working during the day at --
2 from your plant?

3 THE WITNESS: Yeah, there could have been some working in
4 April, you know. But --

5 JUDGE WEDEKIND: In Seattle -- you were working out of
6 Seattle that day?

7 THE WITNESS: Yeah, they would have been working out of
8 Seattle; some of them in April.

9 JUDGE WEDEKIND: So of 15 drivers, you testified earlier,
10 some of them might actually have been working out of Seattle?

11 THE WITNESS: Yeah, their --

12 JUDGE WEDEKIND: That turns a --

13 THE WITNESS: -- their domicile is in Kenmore, but the
14 work is in Seattle. Yeah.

15 JUDGE WEDEKIND: Okay.

16 THE WITNESS: And there would be batching at Seattle.

17 JUDGE WEDEKIND: It sounds like this happens -- I don't
18 know. How often does that happen; that drivers would be
19 working out of Seattle instead of Kenmore, even though they're
20 domiciled in Kenmore?

21 THE WITNESS: Generally, just on, like, Saturday pours --
22 when we help out on -- for Saturdays. But that was a
23 particularly large project, and it just --

24 JUDGE WEDEKIND: In April?

25 THE WITNESS: -- it required -- it wasn't exac --

1 JUDGE WEDEKIND: Um-hum.

2 THE WITNESS: I don't recall how long it was, but it very
3 well could have been in April, too. The Big Bertha project.

4 JUDGE WEDEKIND: Anything else?

5 MR. PAYNE: No.

6 JUDGE WEDEKIND: Okay.

7 THE WITNESS: Thank you.

8 JUDGE WEDEKIND: Thanks for your testimony.

9 Go off the record.

10 (Off the record at 4:08 p.m.)

11 JUDGE WEDEKIND: Next witness.

12 MR. PAYNE: Your Honor, the Employer calls Brent Nordyke
13 to the stand.

14 JUDGE WEDEKIND: Nordyke. All right. We've heard your
15 name a lot, but would you mind --

16 MR. NORDYKE: Yeah.

17 JUDGE WEDEKIND: -- stating it and spelling it, just --
18 just for the record?

19 MR. NORDYKE: My name is Brent Nordyke. B-R-E-N-T,
20 Nordyke, N-O-R-D-Y-K-E.

21 JUDGE WEDEKIND: All right. Thank you very much.

22 Raise your right hand. I'll swear you in.

23 Whereupon,

24 **BRENT NORDYKE**

25 having been duly sworn, was called as a witness herein and was



1 examined and testified as follows:

2 JUDGE WEDEKIND: Thank you very much.

3 Counsel.

4 **DIRECT EXAMINATION**

5 Q BY MR. PAYNE: Mr. Nordyke, are you currently employed?

6 A Yes.

7 Q Where are you employed?

8 A With Glacier Northwest, CalPortland.

9 Q In what capacity are you employed at Glacier?

10 A I am an aggregate salesman.

11 Q And to whom do you report as an aggregate salesman?

12 A Spencer Kull.

13 Q What's his title?

14 A He is the aggregate sales manager.

15 Q How long have you been employed at Glacier Northwest?

16 A I started in 2002, so 21 years.

17 Q In what positions have you been employed at Glacier?

18 A I started as a concrete GC tech. I then was in dispatch.

19 I became a plant manager in Everett. Then I moved to Kenmore

20 as a plant manager. Then I was a plant manager at the Seattle

21 aggregate yard. Then I was moved to Seattle and I became the

22 transportation manager. And then I moved to aggregate sales.

23 Q When did you become transportation manager?

24 A That would have been about 2012.

25 Q And for how long were you a transportation manager?



- 1 A About 2019.
- 2 Q And what were those duties?
- 3 A I was responsible for the central dispatch office in Se --
- 4 Seattle. And I was the supervisor for the 174 drivers in
- 5 Seattle.
- 6 Q Okay. And that included all the mixer drivers?
- 7 A Yes.
- 8 Q And dispatch?
- 9 A Yes.
- 10 Q All fell under your jurisdiction?
- 11 A Yes.
- 12 Q Do you have a college degree?
- 13 A I do.
- 14 Q From where and in what?
- 15 A I have a Bachelor of Science in oceanography from the
- 16 University of Washington, and a master's in business
- 17 administration from Pacific Lutheran University.
- 18 Q Where is that located at?
- 19 A PLU is located in Tacoma.
- 20 Q Were you employed at Glacier on August 11th, 2017?
- 21 A I was.
- 22 Q In what capacity were you employed at Glacier on that
- 23 date?
- 24 A I was the transportation manager.
- 25 Q Okay. And your duties on that day were?

1 A I was in charge of the dispatch office and the ready-mix
2 drivers located at Duwamish --

3 Q Who did you report to in August of 2017?

4 A Justin Denison.

5 Q And is Justin still with the company?

6 A He is not.

7 Q Do you -- do you know approximately when he left?

8 A In 2019, I think -- early part of 2019.

9 Q Okay. Do you recall a strike that started on August 11th,
10 2017, at Glacier Northwest?

11 A I do.

12 Q Where were you when the strike started?

13 A I was dropping my kids off at daycare.

14 Q Okay. And about what time did you get to Seattle yard?

15 A Sometime between 8:30 -- 8:45.

16 Q And just so that I don't forget to ask you, about how many
17 truck mechanics did Western Cascade have, that you guys were
18 using in August of 2017?

19 A They had four that worked the day shift, and I think it
20 was two or three that worked the night shift.

21 Q Okay. And of the four, did they all have CDLs, do you
22 know? Or was one of them a lube guy -- or what were they?

23 A Well, of the four guys that worked during the day, one was
24 a parts -- he ordered parts; he did not have a CDL. And then
25 the other three, I believe, did.

1 Q Okay. And how would you know that -- or why would you
2 know that?

3 A I'd sometimes ask them to help move trucks back and forth
4 across the river.

5 Q Okay. I'm just giving you a document we asked to be
6 marked as --

7 MR. MERRITT: 8.

8 Q BY MR. PAYNE: -- Respondent 8. Can you take a look at
9 this document for a minute?

10 A Okay.

11 Q Can you tell me what it is?

12 A This is a copy -- a printed out copy of a spreadsheet that
13 I prepared in response to a request by Justin Denison.

14 Q Okay. And you prepared the document?

15 A Yes.

16 Q When did you prepare it?

17 A I started preparing this the day of the strike, and
18 then -- so the strike started on the 11th, that was a Friday,
19 and I worked on it Monday, Tuesday, Wednesday -- so the 16th.

20 Q Okay. Over that span of time?

21 A Yeah. So probably three to four days.

22 Q What prompted the creation of this document?

23 A Justin -- on the morning of -- or the day of the strike,
24 Justin asked me to put together a summary of what happened to
25 each ticket, and what load, that day.

1 Q Okay. Did he tell you what the purpose of preparing such
2 a document was going to be?

3 A He just wanted a summary of what we had done that day, and
4 what happened at each load of concrete. That's all he told me.

5 Q In other words, tell me what happened, try to piece it
6 together?

7 A Yeah, try -- I mean, try to create a record of what had
8 happened that day.

9 Q On the 11th?

10 A Yeah.

11 Q Okay. And is this the document you created?

12 A Yes.

13 Q Okay. I'm going to ask you some questions about this
14 document. Let's go down the lefthand column, with the word
15 name; can you tell us what all those names are?

16 A These were the drivers that were on the -- the master
17 list. So the -- all the 174 drivers that were employed by
18 CalPortland, at that time. It's listed in seniority order.
19 Down to the bottom, there's some drivers that have -- towards
20 the bottom that are gray -- they were unavailable that day,
21 either because they were on L&I, or light duty, or they were
22 on -- they called out sick that day, or they had vacation
23 scheduled.

24 Q Okay. And what plants were included among the drivers on
25 this list?

1 A This includes Seattle, Duwamish, Kenmore, and Snoqualmie.

2 Q All right. And the column labeled, "Start Time"; can you
3 tell me what that column represents?

4 A That was the start time that they were assigned to work
5 that day, by dispatch.

6 Q All right. And the column labeled, "Ticketed"; what does
7 that column mean?

8 A So for each ticket, there's a time associated with it when
9 dispatch creates the ticket or dispatches the ticket -- I don't
10 know how to explain that. But that was the time that they were
11 first ticketed -- or ticketed for each of their tickets.

12 Q Okay. So when -- when does a driver get ticketed? When
13 he turns on his truck, when he pulls into the yard -- when are
14 they ticketed at the yard?

15 A No. He's ticketed when someone in dispatch creates the
16 ticket, electronically.

17 Q Okay.

18 A And it goes to the batch panel, and they weigh up the
19 materials, and then elec -- it -- it -- the ticket also goes to
20 their tablet in their -- tablet in their truck.

21 Q Okay. So --

22 A That's how they work.

23 Q The employee go -- does he get the ticket when he's under
24 the batch plant?

25 A Yeah. He would get the -- he would pull under the plant.

1 After the batchman weighs up the materials, it prints out all
2 the weights on a ticket. The batchman would then send a -- a
3 paper copy down, like, a vacuum tube to the driver.

4 Q And what does the ticket tell the driver?

5 A It tells him what -- who he's delivering to, the address
6 he's delivering it to, how many yards of concrete he has, the
7 type of mix, the weight, how many yards, the slump that the
8 customer is requesting -- all the pertinent information for
9 the -- the delivery.

10 Q Okay. And where does the column labeled, "Ticket Number",
11 come from?

12 A That is a number generated by our dispatch software. So
13 each load of concrete delivered has a -- a unique ticket
14 number, and that's --

15 Q And --

16 A Yeah.

17 Q And where did you get the information for the columns,
18 ticketed, and ticketed (sic) number?

19 A I got that from a ticket report that I -- that's generated
20 by our dispatch software.

21 Q And where did you get the ticket numbers from?

22 A Same report.

23 Q Okay. Now, looking down the ticketed column, about
24 halfway down the form, it says, Scott Snyder; do you see Scott
25 Snyder?

1 A Yes.

2 Q It says, never ticketed; what does that mean?

3 A That means he -- we never sent a ticket for him. We never
4 batched the load of concrete for him to deliver that day.

5 Q And do you know why?

6 A He -- when he did his pre-trip that morning, he found a
7 problem with his truck and needed to go to the shop to get it
8 fixed.

9 Q Okay. And you go down a few more entries, there's a Scott
10 Hill, never ticketed. Do you know why he never -- he was never
11 ticketed that day?

12 A Scott didn't come to work that day. He lived in Cle Elum,
13 which is on the east side of Snoqualmie Pass. And even though
14 it was August, there was a major accident on the freeway, and
15 they closed the pass. So he was unable to get to work.

16 Q And what about Robert McKnight; do you know why he was
17 never ticketed?

18 A He also found a problem with his truck during his pre-
19 trip, walking around. And he went to the shop to get it fixed.

20 Q And is that indicated on this form?

21 A Yeah, it's on the column to the right.

22 Q Far right?

23 A Far right. Yes, sir.

24 Q And Josh Viramontes?

25 A Yeah. He also found a problem with his truck, and he went

1 to the shop to get it fixed.

2 Q Okay. And Blake Duch, never ticketed. And there's
3 nothing next to it on the far right, next to him; do you know
4 why?

5 A He was -- so he started that day and did his pre-trip. He
6 brought the truck over. He was waiting in the ready-to-load
7 line when the strike started. So they never ticketed -- never
8 ticketed him, never assigned him a load to deliver, because the
9 strike started.

10 Q Okay. And would that be true for the other never ticketed
11 down below him?

12 A Yes.

13 Q Okay. Except, there's a guy named Brian Wimmer. He
14 apparently did get ticketed; do you know why that is?

15 A He was at Snoqualmie.

16 Q Okay. Different plant?

17 A Different plant.

18 Q Okay. Okay. Let's go to the next. You -- you explained
19 ticket number. There was a column, then, that says, result;
20 what does that column mean?

21 A I was asked to -- to designate whether the load was
22 delivered or not.

23 Q Okay. So we get down to, Allen -- Eric Allen, and under
24 result, it says, voided. What does voided mean on this chart,
25 for Eric Allen?

1 A So the purpose of this column -- it means that we voided
2 the ticket; we were not going to invoice the customer for that
3 load.

4 Q Okay. So the ticket has to do with how customers' get
5 invoiced?

6 A Yeah, if a ticket is voided, we're not going to charge the
7 customer. Some -- we're not going to charge the customer for
8 that load.

9 Q Okay. And we have another one for Allen Marple, at 4 --
10 well, pardon me -- ticketed: 6:40. It says, voided. Can you
11 tell us why that ticket -- or that column reads, voided?

12 A Yeah. Allen did not deliver that load to the customer, so
13 we were not going to charge the customer for that concrete.

14 Q Okay. And then we have one for Allen -- or pardon me --
15 Andy Sullivan. It says, voided. Can you explain why that says
16 voided?

17 A Yeah. He was loaded and was in the yard, but did not
18 deliver the load when the strike started, so --

19 Q And Miles Mayer has a voided. Can you tell us why that --

20 A Again --

21 Q -- says voided?

22 A He was loaded, but he did not deliver the load, so we
23 weren't going to charge the customer.

24 Q Okay. And Blake (sic) Elledge has a voided. Can you tell
25 us why his says voided?

1 A He was loaded, and I believe he started to go to the job,
2 and he did not deliver the load, so we were not going to charge
3 the customer.

4 Q What plant was he working out of that day; do you
5 remember?

6 A Blaine was a Kenmore driver.

7 Q Okay. And then we have Jeff Harris; he's voided. Do
8 you -- do you know why he's voided?

9 A Yes. He was loaded, and he did not deliver the load to
10 the customer, so we were not going to charge the customer.

11 Q What plant was he working out of?

12 A Kenmore.

13 Q Okay. Now, we come to Corwin; it says, voided, and then,
14 left plant at 6:29. Corwin Matwichuk, arrived at job, 6:54.
15 Returned to plant, loaded. Can you explain why that entry
16 reads as it does?

17 A The initial information I got was that Corwin returned to
18 the plant with concrete on his truck. So it was my
19 understanding, at the time I made this chart, that he did not
20 deliver the load. And we voided the cu -- the ticket, so we
21 wouldn't be able to charge the customer.

22 Q And where did you get that initial information you said
23 you got?

24 A The -- Corwin had some conflicting information, so
25 dispatch did not believe that he delivered the load. Robert

1 Burens initially told me that he had come back with concrete.
2 Corwin's time sheet and the ticket indicated that he might have
3 delivered the load. Primarily, I relied on what Robert
4 initially told me; that he had come back with a load of
5 concrete.

6 Q So did you, in fact, have a conversation with Robert
7 Burens that -- that week?

8 A I talked to Robert on Monday, and I asked him if he knew
9 who had brought loads back and who had delivered. At the time
10 I talked to him on the phone, he wasn't sure. And I asked him,
11 well, you know, look at it, think about it, ask the guys. And
12 so Robert was responsible for approving the time sheets for the
13 Kenmore drivers. And I asked him, when he got done with that,
14 send it. Put a note on the drivers' time sheets -- whether
15 they brought a load back -- and email it to me. And he did.

16 Q Okay.

17 A So all the dri -- all the Kenmore drivers, he did that
18 for.

19 Q Okay. Now, we have Rick Lavera is voided. Do you know
20 why it is voided in that column?

21 A Again, he was loaded, but did not deliver the load, so we
22 were not going to charge the customer.

23 Q What plant did he work at?

24 A Kenmore.

25 Q And below that, John Neschke; why was he voided?

1 A John was loaded with a yard of pump-prime grout, so the --
2 do you want me to explain what that is?

3 Q Yeah.

4 A When we deliver concrete to a job that's going to be
5 placed via a concrete pump, a lot of times, customers will ask
6 for pump prime, which is essentially just water and cement. It
7 helps slick the inside of the line to make it easier to pump
8 the concrete. John took it to the job. The strike started.
9 You know, the customer and dispatch agreed that we were not
10 going to be able to deliver the concrete, so John came back
11 with it. We're not going to charge the customer for just a
12 yard of grout when we can't deliver the concrete to follow it
13 up.

14 Q Okay. Did John do what he -- what Glacier asked him to
15 do?

16 A Yes.

17 Q Okay. And now we have, Bill Roark has voided next to his
18 name. Can you explain why that was voided?

19 A Bill Roark was voided, because dispatch did not believe
20 that he had delivered the load -- well, he did not deliver the
21 load to the customer, or they didn't place it.

22 Q Brought the load back?

23 A Yeah. I don't want to jump ahead, but Bill came to me
24 later with a warning letter and told me that the customer had
25 sent him away. And I was able to verify that with the

1 customer.

2 Q I'm sorry, say that again. He came to you --

3 A Bill came to me later --

4 Q Yeah.

5 A -- with a warning letter that he had received, and told me
6 that the customer had sent him away. And I called the customer
7 and was able to verify that.

8 Q And so what happened to that warning letter?

9 A It should have been voided -- or it should have been
10 rescinded. Sorry.

11 Q Okay. And Mark Shipley was voided; do you know why his --
12 his ticket -- his load was voided?

13 A He was loaded, and did not deliver to the customer, and
14 brought back the load.

15 Q Okay. And we have Ken Witham, voided; never left the
16 yard. What happened there?

17 A So he was loaded -- I think we thought he was at the wash
18 rack -- but he didn't -- he did not deliver the load of
19 concrete.

20 Q Okay. It reads, "Parked and turned off truck, loaded, in
21 yard"; did you write that?

22 A I did.

23 Q Okay. What was your understanding of what happened to
24 him?

25 A Ken Witham's assigned truck was identified as one of the



1 trucks that was found, loaded, when -- and turned off, when
2 they were in the process of cleaning up all the trucks.

3 Q Is that significant to you?

4 A Yes. That means the drum was not turning. So we call it
5 dead drum, but concrete was just sitting there, in the drum,
6 setting up.

7 Q What's the risk of that?

8 A If you're not keeping that concrete in motion, you're
9 greatly increasing the risk of it setting up in the drum.

10 Q Okay. We have Daniel Bone. His ticket was voided. Do
11 you know what happened to him, and why it was voided?

12 A He was loaded, did not deliver the load, brought back the
13 load of concrete to the yard.

14 Q And Mike Sparrow was voided; do you know why?

15 A He did not deliver the yard -- or the load of concrete
16 that he was dispatched.

17 Q Okay. Then we have -- one, two, three, four -- five
18 people in a row that were "Voided", beginning with James
19 Witham, Baker, Schwartz, Stiverson, and Whitson. All voided,
20 all within the same ten-minute time frame. Do you know why
21 their tickets were voided?

22 A Dispatch had created tickets for each of them. They were
23 all in the process of either pulling under the plants, or
24 having just been loaded up and rinsing on the wash rack.

25 Q Okay. And how are you able to ascertain that?

1 A That was information from dispatch -- just being
2 observations -- looking out the window. And then we also
3 have -- we had a few video cameras. They were static. They
4 weren't the best, but we could see which trucks were on the
5 wash rack.

6 Q Okay. And did you look at those --

7 A I did.

8 Q -- camera images?

9 A Yeah.

10 Q Did that help you verify the -- the -- these five guys?

11 A Sort of. I could see a couple of the trucks. It's hard
12 to see the truck numbers, so if I didn't -- if the truck wasn't
13 unique enough for me to recognize it, I couldn't tell. But I
14 knew that those five drivers were all ticketed in that general
15 time frame. And then where they were -- they were all, from
16 what I understood, in the yard.

17 Q And how did you learn that -- from whom -- or from -- how?

18 A Looking at the times they were ticketed, and observations
19 from the batchman and -- and dispatch.

20 Q Okay. And -- excuse me -- we have Brian Wimmer, who is
21 voided. Do you know why his ticket was voided?

22 A He was the only load that was ticketed and batched in
23 Snoqualmie. And when the strike started, he came back to the
24 yard.

25 Q With a load?

1 A Yes.

2 Q And lastly, we have Daniel Resnick, who was voided; never
3 left yard. Do you know why that was voided?

4 A Again, he was batched and loaded with concrete, but didn't
5 deliver it, so we weren't going to charge the customer.

6 Q Okay. There's a yellow, highlighted part in the last
7 column, on -- on Daniel Resnick. Can you explain what that is?

8 A He was the second truck that we found that was loaded and
9 turned off. So the drum was not turning.

10 Q Okay. Did you ever talk to Resnick about that?

11 A I did.

12 Q Okay. Tell me about that conversation. Who approached
13 whom?

14 A I approached Danny (phonetic throughout) -- I went on
15 vacation starting the 18th, and came back on the 28th. So I
16 approached Danny Resnick on the 28th or 29th, and asked him
17 about that morning the strike started, and whether he had left
18 his truck turned off.

19 Q What did he tell you?

20 A He said that he didn't know what to do --

21 MR. BERGER: I'm going to object to hearsay. We've heard
22 Mr. Resnick's testimony directly.

23 JUDGE WEDEKIND: We have?

24 MR. PAYNE: Your Honor, he -- well, Resnick testified --

25 JUDGE WEDEKIND: Yeah. Okay.



1 MR. PAYNE: -- on video. And he also was given
2 discipline. And his statement relates directly to his
3 discipline, and also to what he testified to. And I think it's
4 relevant and admissible, Your Honor.

5 JUDGE WEDEKIND: When was he disciplined -- before or
6 after August 28th or 29th?

7 MR. PAYNE: He was disciplined right around August 28th.
8 I think that was that date --

9 JUDGE WEDEKIND: Did -- did you ever --

10 MR. PAYNE: -- of the discipline.

11 JUDGE WEDEKIND: Well, we don't what he said, yet.

12 What did -- I'm going to -- let's take the testimony for
13 now --

14 MR. PAYNE: Thank you.

15 JUDGE WEDEKIND: Yeah. Let's go ahead.

16 Q BY MR. PAYNE: What did Resnick tell you?

17 A He said he -- you know, when the strike started, he was
18 sort of overwhelmed and that he had parked the truck and left
19 it -- turned it off and -- and walked off to -- to join the
20 picket line.

21 Q Okay. Now, Witham is the other guy in yellow, here -- Ken
22 Witham. "Parked and turned off truck, loaded, in yard". Did
23 you talk to him as well?

24 A I did. I approached him on the 28th or 29th, when I
25 returned from vacation.

1 Q And what transpired in that conversation?

2 A I asked Ken if he had left is truck turned off, loaded,
3 and he --

4 Q What did he say?

5 A He told me that he didn't. That he would never do that.
6 He understood that it was too risky to the truck to do that.
7 So I had no evidence -- it -- it was so chaotic that day, I
8 couldn't prove that he had left it turned off or not. He told
9 me that he didn't, and I couldn't --

10 MR. BERGER: I'm just going to object, quick, for the
11 record. On -- on the same grounds.

12 JUDGE WEDEKIND: Well, I mean it's -- these people have
13 already testified. This is the opposing party presenting this
14 evidence. It goes to credibility, doesn't it? It's not about
15 whether -- the truth of the matter asserted. It goes to
16 whether they testified truthfully, earlier.

17 MR. BERGER: I think he is testifying -- they're
18 presenting it for the truth of the matter asserted.

19 JUDGE WEDEKIND: But I assume they're producing it to -- I
20 don't remember what Danny Resnick testified. I do remember --
21 well, actually, I don't even remember what Ken Witham testified
22 to, exactly. But I'm overruling your objection.

23 Q BY MR. PAYNE: So go ahead and finish -- you had your
24 conversation with Witham, and what happened?

25 A Ken assured me that he -- he would never leave his truck

1 loaded and not running. And it was so chaotic that morning, I
2 couldn't prove that he had. So --

3 Q Did --

4 A I mean, I -- somebody else could have come and turned it
5 off for some reason. I -- I don't know.

6 Q Yeah.

7 A I just know his truck wasn't running when we found it.

8 Q Can you think of a reason why a driver would want to turn
9 another driver's truck off when he was loaded?

10 A Not really.

11 Q Um-hum. Now, we have the next column over is labeled,
12 "Returned". This is the column to the right of the word
13 result.

14 A Um-hum.

15 Q Do you know what the column returned represents?

16 A So if a driver delivered a load or left the yard -- the
17 tablets that they had in their cab had service through Verizon.
18 So there was some GPS information that was collected. If they
19 left the geofence, which is a artificial, electronic
20 boundary -- if the truck left that boundary, the GPS would say
21 they left the yard. And when they came back into that
22 boundary, the GPS would say they returned to the yard.
23 Generally, it indicates what time they returned to a plant
24 after delivering a load.

25 Q Okay. And did you rely upon that GPS information for this

1 column?

2 A Yeah. It was part of the ticket report from our dispatch
3 software. So it told me what time they came back from loads.

4 Q Okay. Any other documents you relied upon to create this
5 particular form?

6 A I relied on the dispatch start sheet for that day, to let
7 me know who -- which drivers worked. I relied on the driver's
8 time sheets that they created, themselves -- as they do that
9 every day for their -- their time sheets. I pulled the -- I
10 found as many tickets -- most of the tickets that were printed
11 out and given to the drivers; I used that. And then I
12 interviewed the plant manager, Dave Siemering; Robert Burens;
13 foreman of Seattle; some of the QC techs; and the mechanics in
14 Seattle.

15 Q For what purpose?

16 A Well, for loads that came back, I wanted to know what the
17 drivers did. You know, was the load -- did the driver take the
18 load out back and dump it, did they hand the keys over to you,
19 did you dump it -- just, in general, trying to, again, unravel
20 what happened that morning and create a record of it.

21 Q Okay. You used the word foreman; who's the foreman?

22 A Chuck Spiegel was the foreman in Seattle.

23 Q Is he -- is he represented by a union?

24 A Yeah, he's a 302 operator.

25 Q So he's basically what's sometimes referred to as a

1 working foreman?

2 A Yes.

3 Q He's not a member of management.

4 A No.

5 Q Okay. Now, the last column over -- it doesn't have a
6 label, and for purposes of our discussion today, I'll just call
7 it the comments column -- who filled in those -- those comments
8 in the last column to the right?

9 A I did.

10 Q Okay. And from what information did you use to fill in
11 that -- those -- those entries in that column?

12 A Those were, essentially, my notes on what I was told by
13 the operators, and the mechanics, and the QC personnel that
14 were there that morning, dealing with the clean-up. And then
15 some of them are notes from me, looking at the cameras.

16 Q Okay. And could you tell anything from documents; for
17 example, a guy wrote something on his time sheet?

18 A Yeah, I mean, if they went to the -- the shop, first thing
19 in the morning, they would write that down. I would know that
20 from the time sheets.

21 Q And are these -- this -- is this document completed
22 created by you -- was it?

23 A Yes.

24 Q Okay. And what did you do with this document after you
25 created it?

1 A After I created this -- I finished it sometime Wednesday
2 afternoon, and I took it over to Justin Denison.

3 Q Okay. And when you say, Wednesday afternoon, what date is
4 that? If the strike started on Friday, the 11th --

5 A The 16th --

6 Q All right.

7 A -- I think.

8 Q Did you --

9 A Yeah.

10 Q Did you discuss it with Justin Denison?

11 A Yeah, I just told him, you know, here's what I have. This
12 is what I was able to come up with. We just sort of did a -- a
13 general rundown of -- like I just did -- on how I came up with
14 the information that's on it.

15 Q And who is Justin's boss?

16 A Melanie O'Regan.

17 Q And was Melanie also part of this discussion or a separate
18 discussion?

19 A Initially, I gave it to Justin. After I explained it to
20 him, I think we walked over to Melanie's office, and then I
21 went through the same explanation for her.

22 Q And is this an accurate copy of the chart that you had
23 prepared and turned over to Justin and Melanie on August 16th,
24 2017?

25 A Yes.

1 MR. PAYNE: We move for the admission of Respondent 8.

2 JUDGE WEDEKIND: Any objections?

3 MS. CHEREM: Just a quick voir dire?

4 JUDGE WEDEKIND: Um-hum. Sure.

5 **VOIR DIRE EXAMINATION**

6 Q BY MS. CHEREM: Is this the final version of the document?
7 Or were there other versions created?

8 A This is the final version I gave Justin.

9 Q Okay.

10 MS. CHEREM: I have no objection on that.

11 MR. BERGER: Just a follow-up --

12 **VOIR DIRE EXAMINATION**

13 Q BY MR. BERGER: Are there -- were there other versions
14 that you created?

15 A No, not -- not after this, no.

16 Q Before this document, did you create different versions --

17 A Well, I didn't print them out. I mean, it was a working
18 doc -- Excel spreadsheet, so, like, I changed things. I
19 corrected things as I found out more information.

20 Q Okay.

21 MR. BERGER: I -- I do not object.

22 JUDGE WEDEKIND: It is received.

23 **(Respondent Exhibit Number 8 Received into Evidence)**

24 MR. PAYNE: Your Honor, it's about five minutes to 5. It
25 might be a good time to stop. We've got other documents coming

1 in, and explanations as well.

2 JUDGE WEDEKIND: Sure.

3 MS. CHEREM: Sure.

4 JUDGE WEDEKIND: That sounds good. Let's -- let's go off
5 the record.

6 **(Whereupon, the hearing in the above-entitled matter was**
7 **recessed at 4:51 p.m. until Wednesday, March 1, 2023, at 9:00**
8 **a.m.)**

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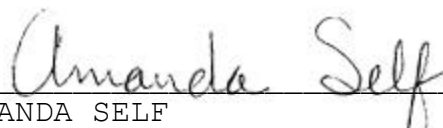
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C E R T I F I C A T I O N

This is to certify that the attached proceedings before the National Labor Relations Board (NLRB), Region 19, Case Numbers 19-CA-203068 and 19-CA-211776, Glacier Northwest d/b/a CalPortland and Teamsters Union Local 174, held at the National Labor Relations Board, Region 19, Jackson Federal Building, South Auditorium, 4th Floor, 915 Second Avenue, Seattle, Washington 98174-1078, on February 28, 2023, at 9:09 a.m. was held according to the record, and that this is the original, complete, and true and accurate transcript that has been compared to the reporting or recording, accomplished at the hearing, that the exhibit files have been checked for completeness and no exhibits received in evidence or in the rejected exhibit files are missing.


AMANDA SELF

Official Reporter